



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No. 07762-10  
11 April 2011



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 March 2011. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

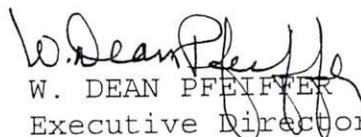
The Physical Evaluation Board evaluated you on 3 January 1989 and made preliminary findings that you were unfit for duty by reason of physical disability due to service aggravated flat feet which were ratable at 10% disabling. You accepted those findings on 10 January 1989, and were honorably discharged from the Marine Corps on 17 February 1989. Following your discharge, the Department of Veterans Affairs (VA) awarded you a 10% rating for the flat feet condition, and denied your request for service connection for a bilateral knee condition. You successfully appealed the determination concerning the knee condition, and were awarded a 10% rating for each knee, for a combined rating of 30% effective from 18 February 1989. Over the course of the next eighteen years, the VA increased the rating for your flat feet and added ratings for several additional conditions which it determined were secondary to other rated conditions. Your

combined disability rating was increased to 50% in 2001, 60% in 2004, and 80% in 2007.

Your receipt of disability ratings from the VA for conditions other than flat feet is not probative of the existence of error or injustice in your naval record. In this regard, the Board found that although the VA may add, increase and/or decrease disability ratings throughout a veteran's post service lifetime, the ratings assigned by the military departments are fixed as of the date of the service member's separation or permanent retirement from the service. In addition, it noted that although the VA rates all of a veteran's conditions that were incurred in, aggravated by, traceable to a period of military service, without regard to the issue of fitness for military duty, the military departments rate only those conditions that render a service member unfit for military duty, or contribute to an unfitting condition and warrant a separate rating. As you have not demonstrated the flat feet condition was ratable at or above 30% disabling as of 17 February 1989, or that you suffered from any other unfitting conditions at that time, the Board was unable to recommend favorable action on your request. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director