



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JRE

Docket No. 7104-12

13 December 2013

[REDACTED]

Dear [REDACTED]

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 5 December 2013. 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.

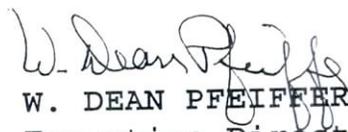
On 21 September 2010 the Physical Evaluation Board (PEB) made preliminary findings that you were unfit for duty by reason of physical disability because of right knee pain, which was rated at 10% disabling. The PEB also considered the multiple conditions that had been evaluated and rated by the Department of Veterans Affairs (VA) in your case, and determined that none

of them rendered you unfit for duty or contributed to the unfitting knee condition. On 28 September 2010 you waived your right to submit new or additional material to the PEB or to demand a formal hearing. You accepted the findings of the PEB contingent upon your being retained on active duty until 28 December 2010. Your request for retention was approved, and you were discharged on the date you specified with entitlement to disability severance pay.

Your receipt of disability ratings from the VA for conditions not rated by the PEB is not probative of error or injustice in your naval record because the VA assigns disability ratings without regard to the issue of fitness for military service. In the absence of evidence which demonstrates that you were entitled to a higher disability rating from the PEB for your knee condition or that you suffered from any other conditions that should have been rated by the PEB, the Board was unable to recommend favorable action in your case. Accordingly, your application has been denied. The names and votes of the panel members 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