



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

JRE
Docket No: 7005-98
20 July 1999

[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 20 May 1999. 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 Board found that on 26 September 1995, the Record Review Panel (RRP) of the Physical Evaluation Board made preliminary findings that you were unfit for duty because of obsessive-compulsive disorder, rated at 10%. Your hypertension and gastroesophageal reflux disorder (GERD) were not considered unfitting, or contributing to the unfitting condition. You accepted the findings of the RRP on 16 November 1995, and you were discharged with entitlement to disability severance pay. The Department of Veterans Affairs (VA) awarded you ratings of 10% for the obsessive-compulsive disorder, vertigo and hypertension from 16 December 1995, and 0% ratings for a fungal infection and GERD, for a combined rating of 30%. The rating for the mental disorder was increased to 30% on 23 January 1997, effective from 21 August 1996.

The Board noted that unlike the VA, which rates all conditions found to be "service connected", the military departments rate only those conditions which render a service member unfit to perform the duties of his office, grade, rank or rating. As you have not demonstrated that you were unfit for duty because of GERD, hypertension or vertigo, and/or

entitled to a combined rating of 30% or higher, there is no basis for recommending that your record be corrected to show that you were retired by reason of physical disability. 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