



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

JRE
Docket No: 430-01
14 November 2001



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 1 November 2001. 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 you were evaluated by a physical evaluation board (PEB) on 23 December 1996, and notwithstanding your history of gout, hypertension, hyperlipidemia, obesity, patellofemoral syndrome, pes planus, hallux valgus, and mechanical low back pain, found fit for duty. You accepted that finding on 30 January 1997. You remained on active duty until 16 April 1997, when you were separated pursuant to the Navy's high-year tenure policy, as an E-4 with more than 10 years of service. Following your discharge, the Department of Veterans Affairs (VA) awarded you a combined disability rating of 30%, effective from 17 April 1997, for gouty arthritis, hypertension, and a left ankle injury.

The Board concluded that your receipt of a substantial disability rating from the VA is not probative of the existence material error or injustice in your case. In this regard, it noted that the VA awards disability ratings without regard to the issue of fitness for military duty. As you have not demonstrated that you were unfit for duty when discharged from the Navy, the Board was unable to recommend any corrective action in your case. 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