



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

JRE
Docket No: 878-00
23 October 2000

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 19 October 2000. 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 served on active duty in the Navy from 21 May 1970 to 20 May 1974, and 12 December 1974 to 23 April 1976, when you were discharged by reason of misconduct. Although you were treated for back and other joint pain from time to time during your service, starting early in your first enlistment, and at one time a diagnosis of ankylosing spondylitis was entertained, your physical complaints were minor in nature, and there is no indication that you were unfit to perform the duties of your office, grade, rank or rating. In this regard, the Board noted you completed a Standard Form 93, Report of Medical History, on 21 April 1976, in connection with your discharge physical examination. You stated "I Feel GReaT! [sic]" when queried about the general state of your health, and denied a history of recurrent back pain, arthritis, rheumatism or bursitis. You were found physically qualified for discharge by the examining physician.

The Board noted that a discharge by reason of misconduct takes precedence over and precludes disability evaluation processing. Accordingly, in the absence of evidence which demonstrates that your discharge by reason of misconduct was improper, and that you were

unfit by reason of physical disability at the time of your discharge, the Board was unable to recommend any corrective action in your case. You should note that ankylosing spondylitis is not unfitting per se, and that disability retirement is accorded only in those cases where the service member has been found unfit for duty. The issue of entitlement to compensation for a conditions such as yours, which might be related to a period of military service, but was not unfitting at the expiration of that period, is within the purview of the Department of Veterans Affairs.

In view of the foregoing, 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