



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

JRE
Docket No: 1067-01
27 August 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 16 August 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, applicable statutes, regulations and policies, and the comments of your counsel.

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. In this regard, the Board was not persuaded that your condition met the criteria for a rating in excess of 10% at the time of your discharge. Your disability evaluation proceedings do not demonstrate that there was persistent swelling of your leg which was increased on standing or walking, easily relieved by recumbency, or moderate discoloration, pigmentation or cyanosis. In addition, it noted that when you underwent your pre-separation physical examination, there was only trace edema in your left lower extremity. In addition, it concluded that even if it were to be assumed, for the sake of argument, that your condition warranted a 30% rating at that time, and that your name was placed on the Temporary Disability Retired List, the rating would have been reduced below 30% under criteria which came into effect during January 1998, and you would have been discharged by reason of physical disability after undergoing your first periodic examination. 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