



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

JRE
Docket No: 2938-00
9 April 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 29 March 2001. After careful consideration of your application, the Board concluded that your application was not timely filed, and that it would not be in the interest of justice to excuse your failure to submit your application in a timely manner. Although you may not have been aware of the precise diagnosis of your alleged mental disorder until recently, you knew that you were found fit for separation on 3 November 1958, and that you were released from active duty several days later without entitlement to disability benefits administered by the Department of the Navy.

In addition to the foregoing, the Board concluded that you failed to submit sufficient relevant evidence to demonstrate the existence of probable material error or injustice in your naval record. As indicated above, you were found fit for duty on 3 November 1958. The fact that your signature does not appear on the report of examination does not vitiate the finding of fitness, or demonstrate that you did not undergo an examination on that date, as you now allege. The Board largely rejected the findings and conclusions of the Department of Veterans Affairs (VA) psychiatrist who evaluated you on 25 November 1997, because they were based in large part on a very limited period of observation, and his acceptance of your self-serving reports, which were not objectively verified. Additionally, he did not provide a satisfactory explanation for his acceptance of the findings of the general medical officer who observed you on 2 May 1958, and assessed your condition as a schizophrenic reaction, rather than those of the trained psychiatrists who closely observed and evaluated you during the 3 to 17 May 1958 period, and determined that you were suffering from acute situational maladjustment. The Board also questioned the validity of the psychiatrist's paradoxical findings to the effect that you would not have been permitted to complete your enlistment had you been suffering from a personality disorder, but that your "original and ongoing" diagnosis of schizophrenia, which is a much more severe condition, did not prevent you from

completing your enlistment successfully. The Board concluded that even it were to be assumed, for the sake of argument, that you did suffer from schizophrenia during your enlistment, you would not be entitled to disability benefits administered by the Department of the Navy, because that condition was quiescent at the time of your release from active duty. Although the VA may award disability benefits for any condition it classifies as "service connected", that is, incurred in, aggravated by, or merely traceable to a period of military service, without regard to the issue of fitness for military duty, the military departments may award disability benefits only in those cases where the service member has been found unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. You have not demonstrated that you were unfit for duty on 7 November 1958.

You may request reconsideration of this decision. Your request must include newly discovered relevant evidence which was not reasonably available to you when you submitted your application. The evidence may pertain to the timeliness of your application or to its merits. Absent such additional evidence, further review of your application is not possible.

It is regretted that a more favorable reply cannot be made.

Sincerely,

W. DEAN PFEIFFER
Executive Director