



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

JRE  
Docket No: 3240-01  
26 December 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 6 December 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 on 9 January 1998, you completed a NAVMED Form 6100/4, in which you acknowledged that you had been counseled concerning the effects of your refusal to undergo surgery to correct your torn medial meniscus, to include the possibility of discharge from the naval service without entitlement to disability benefits administered by the Department of the Navy. On 13 January 1998, the Physical Evaluation Board (PEB) found you unfit for duty because of the torn meniscus, and determined that your condition was not ratable in view of your unreasonable refusal to undergo recommended surgery. In accordance with SECNAVINST 1850.4.D, paragraph 3413, your disability was classified as having been incurred as a result of your own willful neglect, and not in the line of duty. You accepted the findings of the PEB on 4 February 1998, and you were discharged on 8 April 1998, without entitlement to disability benefits.

In the absence of evidence which demonstrates that your refusal of surgery was reasonable, 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