



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20373-5100

JRE
Docket No: 3379-00
1 June 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 17 May 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 the Physical Evaluation Board (PEB) on 26 June 1998. The PEB made preliminary findings that you were unfit for duty because of chronic, post-operative back pain. Your chronic leg pain was listed as a category III condition, that is, not separately unfitting or contributing to the unfitting condition. You accepted those findings unconditionally on 8 July 1998, and were discharged with entitlement to disability severance pay on 2 September 1998. Following your discharge, the Department of Veterans Affairs (VA) awarded you 10% ratings for sciatica, an adjustment disorder, and a condition of your left knee, for a combined rating of 30%.

The Board noted that the VA awards disability ratings without regard to the issue of fitness for military duty. The military departments, however, may rate only those conditions which render a service member unfit for duty, or which contribute to an unfitting condition and warrant a separate rating. In the absence of evidence which demonstrates that your back condition was ratable at 30% or higher, or that you suffered from additional unfitting conditions, and were entitled to a combined rating of 30% or higher, 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