



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

JRE
Docket No: 4265-00
10 July 2001

[REDACTED]

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 28 June 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 discharged from the Naval Reserve on 1 August 1986, by reason of physical disability, with entitlement to disability severance pay. You were awarded a 10% rating for a back condition. On 14 November 1988, the Department of Veterans Affairs (VA) advised you that it had rated your back condition at 20%, and denied service connection for a psychiatric disorder. On 14 June 1990, the rating for your back condition was increased to 30%, effective from 9 February 1987. On 24 May 1994, the Board of Veterans Appeals denied your request for secondary service connection for a psychiatric disorder; however, on 28 October 1998, rating officials at VA regional office awarded you service connection and a 70% rating for depression, effective from 17 August 1994.

The Board noted that the military departments assign disability ratings only to those conditions which render a service member unfit to perform the duties of his or her office, grade, rate or rating, and that assigned ratings are fixed as of the date of separation or permanent retirement. The VA, however, rates any condition it classifies as service connected, i.e., incurred in, aggravated by, or traceable to a period of military service, or

derived from a service connected condition. Ratings are not fixed, and may be raised, lowered or added throughout a veteran's life time, as circumstances warrant. The Board was not persuaded that you suffered from an unfitting mental disorder when discharged from the Naval Reserve on 1 August 1986, or that your back condition was ratable at or above 30% disabling at that time. The unfortunate deterioration in your health which occurred following your discharge is matter within the purview of the VA, rather than the Department of the Navy. Accordingly, there is no basis for recommending any corrective action in your case, and 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