



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

JRE
Docket No: 4518-00
18 September 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 13 September 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. In addition, the Board considered the advisory opinion furnished by the Director, Naval Council of Personnel Boards dated 26 April 2001, a copy of which is attached, and the comments of your counsel in response thereto.

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 connection, the Board substantially concurred with the comments contained in the advisory opinion. You were assigned a rating which reflected the degree of impairment caused by your condition as of the date of your discharge. As that rating was below 30%, there was no available alternative to discharging you with entitlement to disability severance pay, as required. 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

Enclosure

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE OF
FORMER [REDACTED]

d. The above noted symptomatic and functional improvement is not reflected in the DVA Rating Decisions submitted with the BCNR application because, apparently, no DVA Rating Decision occurred during the extended period of improving/improved functioning during which the above PEB TDRL evaluation sequence occurred.

e. Sadly, by the end of a nearly two year period after being removed from the TDRL with severance pay and three years after his Guillain-Barre Syndrome appeared to be in remission, the Petitioner's condition deteriorated, although he was able to maintain employment on a full-time basis.

f. Incidentally, about half of the conditions listed in the roughly concurrent 40% DVA disability rating appear to be conditions that the PEB would have determined to not be separately unfitting, (e.g., low back condition).

g. There appears to be insufficient evidence to warrant granting the BCNR request.

3. In summary, the evidence in the record supports the severance pay the Petitioner received and his removal from the TDRL. Accordingly, no modification to the Petitioner's record is recommended.

4. If there are any questions, my point of contact for this case is Lieutenant [REDACTED] JAGC, U.S. Naval Reserve. He is available at (202) 685-6399.

[REDACTED]
Director