



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

JRE
Docket No: 5545-00
5 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 30 August 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 comments of your counsel.

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 released from active duty on 31 October 1951 and transferred to the Temporary Disability Retired List (TDRL) with a disability rating of 30%. You were discharged from the Marine Corps on 10 August 1953, with a disability rating of 20%, and severance pay in the amount of \$1,559.40. Due to the extended period of time which has elapsed since your discharge, the evidence upon which the Secretary of the Navy based the decision to reduce your rating was not available for review by the Board, and it was constrained to apply a presumption of regularity to that determination. The fact that the Veterans Administration awarded you a combined disability rating of 70%, and rated several conditions not rated by the Navy, was considered insufficient to demonstrate that you should have been permanently retired from the Marine Corps. It appears that the VA based its ratings on the presumptive severity of the residuals of your wounds, rather than on an objective assessment of the functional impairment caused by those residuals. As the Board was not persuaded that the disability rating you were assigned by the Secretary of the Navy is erroneous or unjust, it 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