



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

JRE
Docket No: 3113-02
15 October 2002



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 26 September 2002. 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 underwent a pre-separation physical examination on 26 March 2001. Although you disclose an extensive medical history at that time, you stated that you were in good health. The conditions you disclosed were evaluated by the physician who conducted the examination, and none was considered disqualifying, and you were found fit for full duty. On 14 August 2001, you were released from active duty early, at your request, in order to further your education. You were assigned a reenlistment code of RE-1, to indicate you were fully qualified and recommended for reenlistment. On 2 January 2002, the Department of Veterans Affairs (VA) awarded you a combined rating of 70% for endometriosis (50%), migraine headaches (30%), and tonsillitis, sinusitis, gastroesophageal reflux disease (GERD) and tendinitis of the right knee, each rated at 0%. The ratings were based, in part, on changes in your conditions which occurred following your release from active duty. On 9 February 2002, you were found to be unqualified for service because of endometriosis, endometrioma, migraine headaches, GERD, bursitis and tendinitis of the right knee, and obesity. That finding was based, in part, on the aforementioned VA rating decision.

The Board concluded that your receipt of substantial disability ratings from the VA is insufficient to demonstrate that your release from active duty was erroneous. In this regard it noted that unlike the VA, which rates all conditions it classifies as "service connected", the military departments are permitted to assign disability ratings only to those conditions which render a service member unfit to perform the duties of his or her office, grade, rank or rating. In addition, fitness and rating determinations made by the military departments are fixed as of the date of separation or retirement. The Board concluded that the available records do not demonstrate that you were unfit for duty prior to your release from active duty on 14 August 2001.

In view of the foregoing, your application has been denied. 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