



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

JRE  
Docket No: 3513-00  
24 January 2002

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 12 January 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. In addition, the Board considered the advisory opinion furnished by the Director, Naval Council of Personnel Boards, dated 30 October 2001, a copy of which is attached, and the comments of your counsel.

After careful and conscientious consideration of the entire record, a three-member panel of 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, and unanimously voted to deny your request for correction of your record to show that you were retired by reason of physical disability. One member of the Board recommended that your record be corrected to show that you were transferred to the Fleet Reserve under the Temporary Early Retirement Authority. The remaining two members of the panel did not concur with that recommendation.

In view of the foregoing, 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



DEPARTMENT OF THE NAVY  
NAVAL COUNCIL OF PERSONNEL BOARDS  
720 KENNON STREET SE STE 309  
WASHINGTON NAVY YARD DC 20374-5023

5420 <sup>IN REPLY REFER TO</sup>  
Ser: 01-25  
30 Oct 01

From: Director, Naval Council of Personnel Boards  
To: Executive Director, Board for Corrections of Naval Records

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

Ref: (a) Your ltr JRE:jdh Docket No.: 03513-00 of 21 Jun 01  
(b) SECNAVINST 1850.4D

1. This letter responds to Petitioner's request for correction of his naval records as found in reference (a). The Petitioner contends he should have received a disability rating prior to his discharge from the naval service.

2. The Petitioner's case history, contained in reference (a), was thoroughly reviewed in accordance with reference (b) and is returned. The following comments are provided:

a. The Petitioner was discharged from the U.S. Navy on 27 January 1998 after 17 years of active duty service. Before the Petitioner was discharged he was medically evaluated and his case was reviewed by the Physical Evaluation Board. The Board found him fit for duty.

b. On 27 August 1998, he suffered a heart attack. He filed a claim with the Department of Veterans Affairs (DVA) and was subsequently rated at 60% for arteriosclerotic heart disease.

c. The Petitioner believes he is entitled to disability retirement pay and benefits from the Navy because he believes his condition existed prior to his discharge. He has requested to be placed on the Permanent Disability Retirement List (PDRL) with a 60% disability rating for the arteriosclerotic heart disease.

d. The documentation of functional impairment while on active duty in the Petitioner's medical record is largely confined to his limitations on the Physical Readiness Test (PRT) and his inability to deploy.

e. Cardiac evaluations, including a cardiac nuclear/sustamibi scan, performed while the Petitioner was on active duty indicated no significant coronary vessel compromise.

f. While on active duty the Petitioner was medically advised to improve his cardiac health risk factors through exercise, weight reduction and smoking interdiction.

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

g. The Petitioner did not suffer his "heart attack" (acute inferolateral/posterior myocardial infarction) until over seven months after his discharge from the service.

3. In summary, there is insufficient evidence in this member's file to justify granting the Petitioner's request for a retrospective PEB finding of unfit and a disability rating. He was fit for duty when he was discharged from the service. There is a distinction between suitability for duty and fitness for duty. The Petitioner may not have been able to perform the PRT or deploy (issues of suitability), but this does not affect the fact he was fit for duty. Accordingly, no changes are recommended for the Petitioner's record.

[REDACTED]