



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

JRE
Docket No: 3604-02
2 December 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 15 November 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 on 17 March 1997, the Physical Evaluation Board (PEB) made findings that you were unfit for duty because of multiple arthroses of the cervical spine, lumbar spine, hip and left thumb, which was ratable at 10%. You accepted those findings on 24 March 1997, and you were discharged with entitlement to disability severance pay on 16 May 1997. On 22 July 1997, the Department of Veterans Affairs (VA) awarded you ratings of 10% for lumbosacral arthritis and disc disease, left foot plantar fasciitis, arthritis of the left thumb, a right knee condition, hypertension, hypothyroidism, hypertension; 50% for a hysterectomy with bilateral salpingo-oophorectomy, with entitlement to special compensation for loss of use of a creative organ; and 0% ratings for 13 other conditions.

The Board noted that in order to qualify for disability retirement, a service member who has not completed 20 years or more of active duty service must be unfit by reason of physical disability ratable at or above 30% disabling. The Board was not persuaded that your arthritic conditions were ratable above the 10% rating assigned by the PEB. It concluded that none of the remaining conditions rated by the VA but not the PEB, either singly or in

combination, rendered you unfit to perform the duties of your office, grade, rank or rating. As such, they were not ratable by the PEB. In addition, it noted that the VA rates all conditions it classifies as "service connected", without regard to the issue of fitness to perform military duty.

In view of the foregoing, Board was unable to recommend that your request for correction of your record be granted. 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