



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

JRE
Docket No: 4042-01
12 February 2002

[REDACTED]

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 7 February 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 rejected your unsubstantiated contention to the effect that you should have received a 30% disability rating for your lower back condition, vice the 10% rating you received in 1966. Available records indicate that the condition was productive of minimal to mild impairment at that time. The Board noted that you had full range of motion in your lower back, with normal tendon reflexes, and no radiating pain, numbness, paresthesia or weakness of your lower extremities. As you may know, ratings assigned by the military departments are fixed as of the date of separation or permanent retirement. The Board also noted that the Department of Veterans Affairs found that your condition was productive of only minimal impairment, as it rated the condition at 0% from 6 April 1966 to 24 March 1987.

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