



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

JRE  
Docket No: 4399-99  
23 March 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 1 March 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.

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 6 February 1997, the Physical Evaluation Board made preliminary findings that you were unfit for duty because of chronic low back pain, which it rated at 10%. A septal deviation was classified as not unfitting or contributing to the unfitting back condition, and your adjustment disorder with depressed mood and obesity were classified as conditions which did not constitute a disability. You accepted those findings on 24 February 1997, and you were discharged with entitlement to disability severance pay on 11 April 1997. On 5 December 1997, the Department of Veterans Affairs (VA) awarded you ratings of 40% for degenerative disc disease of the lumbar spine; 10% for dysthymic disorder; and 0% for four conditions. It denied your request for service connection for eighteen other conditions.

The Board concluded that your lower back condition was productive of minimal to mild disability at the time of your discharge, and that the 10% rating assigned by the Navy is a more accurate reflection of the degree of disability produced by that condition than is the 40% rating assigned by the VA, which was based in large part on your subjective

complaints. In addition, it was not persuaded that you suffered from any other ratable conditions at that time. 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