



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

JRE
Docket No. 08842-02
24 April 2003

[REDACTED]

[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 17 April 2003. 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. In this connection, the Board noted that in order to qualify for disability separation or retirement from the military services, a service member must be unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. Although you suffered from sleep apnea and a number of other medical conditions during your service in the Navy, none of them rendered you unfit for duty at the time of your voluntary discharge from the Navy. The fact that the Department of Veterans Affairs (VA) has awarded you substantial disability ratings is not probative of error or injustice in your record, because the VA awards such ratings without regard to the issue of fitness for duty. As you have not demonstrated that you were unfit for duty, the Board was unable to recommend any corrective action in your case. 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