



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

JRE
Docket No. 05390-08
12 September 2008

[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 4 September 2008. 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 you served on active duty in the Navy from 17 July 1942 to 6 April 1945, when you were honorably discharged pursuant to the approved findings of a board of medical survey that you were disabled due to the effects of a head injury that existed prior to your enlistment (EPTE), and was aggravated in the line of duty.

The Board was not persuaded that the EPTE determination that was made in your case is erroneous or unjust. In addition, it noted that voiding that determination would not accord you effective

relief because you are receiving disability benefits from the Department of Veterans Affairs for the condition that led to your discharge from the Navy in 1945, and there were no provisions of law for the disability retirement of enlisted service members prior to 1 October 1949, the effective date of the Career Compensation Act of 1949. 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