



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

JRE  
Docket No. 05951-08  
11 May 2009

[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 23 April 2009. 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 16 February 1989 to 23 March 1993, when you were discharged by reason of physical disability with entitlement to severance pay. The Department of Veterans Affairs (VA) awarded you a disability rating of 40% for residuals of a gunshot wound to the left buttocks, with sciatic nerve damage, effective from 6 February 2005. On 11 July 2008 the VA denied your request for service connection for back pain, after determining that the pain was not related to the gunshot wound or the continued presence of a bullet fragment in the L5 vertebral body.

The Board noted that entries in your naval record indicate that when shot on 19 April 1992, while off duty, a bullet entered your left buttocks and lodged near your spinal canal. The Board concluded that given that information, there is there is no basis for correcting your record to show that you sustained a gunshot wound to the lower back vice the buttocks. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider the issue of your entitlement to a disability rating from the Department of Veterans Affairs (VA) for a back condition in addition to the 40% rating you receive for the residuals of the gunshot wound to your buttocks, as that issue is within the purview of the VA rather than the Department of the Navy.

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,



ROBERT D. ZSALMAN  
Acting Executive Director