



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No. 01359-09

20 March 2009

[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.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 March 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.

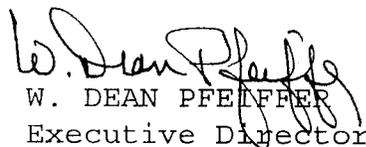
The Board found that you enlisted in the Navy on 21 November 1983 and reenlisted on 2 October 1987. You underwent a pre-separation physical examination on 14 July 1993 and were found physically qualified for separation. You were discharged on 1 November 1993 by reason of completion of required service, and assigned a reentry code of RE-1, to indicate that you were eligible and recommended for reenlistment. You underwent a pre-enlistment physical examination on 16 November 1993 and were found qualified for enlistment. You completed a Standard Form 93, Report of Medical History, on that date in which you denied

having recurrent back pain. In addition, you did not report a history of knee pain, and stated that you had "no back pain at this time". On 20 February 2002, the Department of Veterans Affairs (VA) denied your request for service connection for lumbosacral strain; however, on 23 February 2005, the VA granted your request for service connection for degenerative joint disease of the spine and residuals of a left knee sprain. The VA rated each of those conditions at 10% effective 28 April 2004.

The fact that the VA granted your request for service connection for two conditions many years after you were discharged from the Navy is not probative of the existence of error or injustice in your naval record, because the VA took that action without regard to the issue of your fitness for military duty on 1 November 1993. In the absence of evidence which demonstrates that you were unfit to reasonably perform the duties of your office, grade, rank or rating by reason of physical disability at the time of your discharge, the Board was unable to recommend 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