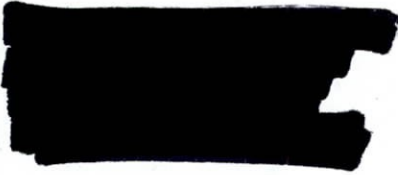




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No. 08685-10
9 June 2011



[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 2 June 2011. 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.


You served on active duty in the Marine Corps from 3 February 1990 to 15 October 1995, when you were discharged by reason of physical disability. You received a combined disability rating of 10% for residuals of a destructive mass/tumor in the left external auditory canal and conductive hearing loss, left ear. On 26 March 1996, the Department of Veterans Affairs (VA) awarded you a combined rating of 0% for three orthopedic conditions and residuals of a laceration of the left forearm; thereafter, the VA added 0% ratings for hearing loss, left ear, with history of tumor, and tinnitus.

In the absence of evidence which demonstrates that you are entitled to combined disability rating of 30% or higher for the ear canal tumor

and hearing loss, or that you suffered from any other conditions that rendered you unfit for duty at the time of your discharge, the Board was unable to recommend favorable action on your request. It noted that your receipt of VA disability ratings for multiple conditions that were not rated by the Department of the Navy is not probative of the existence of error or injustice in your naval record because the military departments rate only those conditions that render a service member unfit for duty, or contribute to an unfitting condition and warrant a separate disability rating, whereas the VA must rate all conditions incurred in or aggravated by military service. 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