



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

JRE

Docket No. 12128-11  
5 November 2012

[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 25 October 2012. 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.

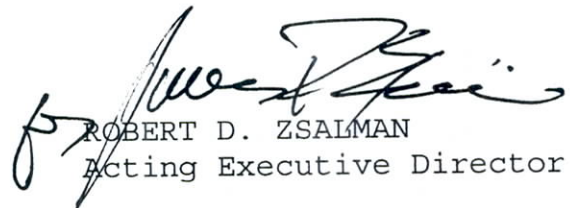
On 20 December 2004 the Physical Evaluation Board (PEB) made preliminary findings that you were unfit for duty due conditions of your spine and feet and an eating disorder. The PEB also found that you suffered from two category II disorders that were

related to the spinal disorder, a foot condition that was not unfitting, and three conditions that did not constitute a physical disability. You accepted those findings on 24 January 2005, and waived your right to a hearing before the PEB. You were discharged in accordance with the approved findings of the PEB on 31 March 2005.

The fact that you received a substantially higher combined disability rating from the Department of Veterans Affairs (VA) was not considered probative of error or injustice in your naval record. In this regard, the Board noted that the VA may assign disability ratings without regard to the issue of a veteran's fitness for military duty vis-à-vis the rated conditions at the time of discharge. In addition, the VA may rate conditions such as your adjustment disorder that do not constitute disabilities under laws administered by the military departments. As you have not demonstrated that the PEB should have assigned you a combined disability rating of 30% or higher, or that you should have received ratings for additional conditions, the Board was unable to recommend favorable action on your request. 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,

  
ROBERT D. ZSALMAN  
Acting Executive Director