



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

JRE  
Docket No: 6626-97  
23 August 1999



Dear [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 19 August 1999. 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 on 18 August 1995, the Record Review Panel of the Physical Evaluation Board made preliminary findings that you were unfit for duty because of a back condition, which it rated at 10%. You accepted those findings on 6 September 1995, and were discharged on 28 November 1995 with entitlement to disability severance pay.

The Board noted that the Department of Veterans Affairs (VA) rates all conditions it classifies as "service connected", i.e., incurred in, aggravated by or traceable to a period of military service, without regard to the issue of fitness for military service. The military departments rate only those conditions which render a service member unfit for duty, or contribute to an unfitting condition and warrant a separate rating. The fact that the VA awarded you service connection and substantial disability ratings for numerous additional conditions is not probative of your contentions of error and injustice, because you have not demonstrated that any of those conditions rendered you unfit for duty. In addition, it noted that although the VA ratings were made retroactive to 26 December 1995, in accordance with regulations applicable to that agency but not the military departments, most of the

ratings reflect deterioration in your condition which occurred following your discharge from the Navy. Unlike VA ratings, those assigned by the military are fixed as of the date of separation or permanent retirement.

In view of the foregoing, 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