



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

JRE
Docket No: 8594-97
19 October 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 15 October 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. In this regard, the Board noted that you underwent a pre-retirement physical examination on 22 September 1992, and were found physically qualified for retirement. Although you disclosed an extensive medical history, you stated that you were in good health at that time, and none of the conditions noted by the examining physician was considered disqualifying. The Board also noted that in those cases where a service member continues to perform the duties of his office, grade, rank or rating until commencing processing for non-disability retirement, there is a rebuttable presumption that he is fit for duty. There is no indication in the available records that you were improperly retained on active duty until you qualified for length of service retirement, while actually being unfit for duty, or that there was an acute, grave deterioration of your physical condition immediately prior to or coincident with your commencing processing for retirement. In addition, the fact that a service member's performance is adversely affected by a disease or physical malady is not, in itself, sufficient to establish entitlement to disability separation or retirement.

In view of the foregoing, your application has been denied. 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