



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 7236-98

26 March 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 25 March 1969. 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 were released from active duty on 5 September 1969. On 17 September 1969, you sought medical care at a Veterans Administration (VA) medical facility complaining of back pain. A routine blood count was performed, and you were found to be slightly anemic. Physical examination revealed an enlarged spleen, and differential diagnoses of lymphoma and idiopathic hemolytic anemia were established. You underwent a splenectomy for the purpose of establishing a diagnosis, rather than for treatment of the anemia. You were awarded a 30% rating for the splenectomy and 10% for low back pain effective 6 September 1969.

The Board noted that in order to establish your entitlement to disability benefits administered by the Department of the Navy, you must demonstrate that you were unfit to perform the duties of your office, grade, rank or rating prior to your release from active duty. Although you might have had an enlarged spleen prior to 5 September 1969, there is no indication that you were unfit for duty at that time. The fact that the VA awarded you a combined disability rating of 40% effective the day following your release from active duty is not

probative of the existence of material error or injustice in your record, because the VA awards disability ratings without regard to the issue of fitness for military duty. 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