



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

JRE
Docket No: 4097-98
4 May 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 29 April 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. In addition, the Board considered the advisory opinions furnished by the Specialty Advisory for Neurosurgery dated 28 July 1998, and Director, Naval Council of Personnel Boards dated 22 March 1999. A copy of each opinion is attached.

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 connection, the Board substantially concurred with the comments contained in the advisory opinion provided by the Director, Naval Council of Personnel Boards. It noted that your first seizure occurred approximately four months after you entered on active duty. It was not persuaded that the seizure disorder or your brain tumor were incurred in or aggravated by your naval 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

Enclosure



DEPARTMENT OF THE NAVY
NAVAL COUNCIL OF PERSONNEL BOARDS
BUILDING 36 WASHINGTON NAVY YARD
901 M STREET SE
WASHINGTON, DC 20374-5023

IN REPLY REFER TO

5420

Ser: 99-027

22 Mar 99

From: Director, Naval Council of Personnel Boards
To: Chairman, Board for Correction of Naval Records

Subj: COMMENTS AND RECOMMENDATION IN THE CASE OF FORMER
[REDACTED]

Ref: (a) BCNR ltr JRE DN: 4097-98 dated 4 Aug 98
(b) SECNAVINST 1850.4C

1. This responds to reference (a) for information to show whether or not Petitioner's discharge should be changed to a medical retirement. **We have determined that the Petitioner's request warrants no change to the Physical Evaluation Board's (PEB) findings.**
2. The Petitioner's case history and medical records have been thoroughly reviewed in accordance with reference (b) and are returned. The following comments as well as our recommendation are provided below.
3. Petitioner's head trauma at ages 8 and/or 18 years likely resulted in the right temporal lobe lesion detected on active duty in 1990; but the latter may not be the most likely cause of the seizures which developed in 1988 after 6 to 7 months of military service. After all, a tumor sufficiently rooted to produce a seizure disorder was likely in existence/developing over a much longer period than the above 6 to 7 months of active duty. Thus, this represents an Existed Prior to Entry (EPTE) condition regardless of etiology.
4. Petitioner's right temporal arachnoid cyst demonstrated little growth while on active duty; indeed, the Department of Veterans Affairs (DVA) considered it stable until the rapid growth noted between April and December 1994--accompanied by a drastic progression of his symptoms {nausea, vomiting, etc.}--over 3 years post discharge.
5. Petitioner's seizure disorder was more likely due to even an undetectably small or masked tumor than the right temporal tip encephalomalacia noted while he was on active duty.

