



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

JRE
Docket No: 4023-01
19 February 2002



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 7 February 2002. 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 was not persuaded that you suffered from a seizure disorder prior to your discharge from the Marine Corps in 1989. It noted that you complained of dizzy spells, headache, numbness of your tongue and numbness down your left arm on 26 February 1986, and that your spouse stated that you talked in slow motion. You were not diagnosed as suffering from a seizure disorder at that time, and there are no documented recurrences of those phenomena, with the exception of several complaints of dizziness, during the remainder of your enlistment. There is no indication in the available records that you suffered from any neurological symptoms which rendered you unfit for duty in 1989, when you were discharged for mechanical low back pain. The fact that the Department of Veterans Affairs (VA) awarded you service connection and a 20% rating for a seizure disorder on 6 February 1992, after you suffered a grand mal seizure in February 1991, was not considered probative of the existence of error or injustice in your record. In this regard, the Board noted that the VA may assign, raise and/or lower disability ratings at any time during a veteran's life time for any conditions it classifies as "service connected", without regard to the issue of fitness for military duty. The military departments are permitted to rate only those conditions

which render a service member unfit for duty. Ratings are fixed as of the date of separation or permanent retirement, and may not be raised or lowered at the condition deteriorates or improves. No condition is unfitting per se, and none is ratable absent a finding of unfitness.

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