



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

JRE
Docket No: 7244-01
29 January 2003



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 23 January 2003. 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 opinion furnished by the Marine Corps Recruiting Command dated 26 November 2002, a copy of which 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. It was not persuaded that your separation from the Naval service was related to the residual effects the encephalitis you suffered in 1995. 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



UNITED STATES MARINE CORPS
MARINE CORPS RECRUITING COMMAND
3280 RUSSELL ROAD
QUANTICO, VA 22134-5103

IN REPLY REFER TO:

1610

G-1

NOV 26 2002

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF FORMER MEMBER [REDACTED]

- Encl: (1) Physical exam dtd 14 Oct 97
(2) Commanding Officer, NROTC Unit, [REDACTED] ltr dtd
18 Aug 98
(3) OCS Patient Disposition
(4) Commanding Officer, NROTC Unit, [REDACTED]
disenrollment notes dtd 18 Aug 98
(5) NROTC Education Cost Worksheet

1. After a review of all submitted records, the command stands by its original determination that [REDACTED] be required to repay the government for his educational benefits.

2. [REDACTED] entered the Naval ROTC Unit at Marquette University in August 1995. During a training exercise that month, he was admitted to the hospital and diagnosed with encephalitis (an acute inflammation of the brain caused by a viral infection). [REDACTED] was treated and released. Upon returning to the Naval ROTC Unit, [REDACTED] made no reference of any side effects or complications. In October 1997, [REDACTED] completed a physical exam (enclosure 1) and made no reference to anything other than a broken bone in his Report of Medical History (SF93).

3. In January 1998, [REDACTED] was counseled on his substandard performance in his pre-OCS training (enclosure 2). Specific references were made to his lack of upper body strength and endurance. The command was concerned that he would be unable to meet the physical demands of OCS. In June 1998, when reporting to OCS, [REDACTED] claimed a two year history of depression and was sent home (enclosures 3, 4). When [REDACTED] returned from OCS, he was scheduled for, and received a reevaluation, during which he was found physically fit for duty. [REDACTED] disputed the finding and requested a second opinion from a doctor that diagnosed him with depression.

Subj: BCNR APPLICATION IN THE CASE OF FORMER MEMBER [REDACTED]
[REDACTED]

4. [REDACTED] received over \$42,000 in educational assistance during the period he claims to have been disqualified for commissioning in the Marine Corps (enclosure 5). During this period, he failed to disclose any information to any staff members of the Naval ROTC unit. Based on the above information, [REDACTED] should be required to repay the government for the cost of his education for failure to disclose pertinent disqualifying information.

[REDACTED]

By direction