



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

JRE
Docket No: 8468-00
24 July 2001

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 14 June 2001. 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 enlisted in the Marine Corps on 12 November 1996. It appears that your enlistment was fraudulent, in that you failed to disclose a significant pre-service knee injury. You were discharged on 24 June 1999 with a bad conduct discharge, pursuant to the sentence of a special court-martial.

The Board noted that a punitive discharge takes precedence over and precludes disability evaluation proceedings. Although you had been referred for disability processing because of complaints associated with your pre-service knee injury, those proceedings were properly suspended and later terminated because of your pending disciplinary proceedings and subsequent discharge. In the absence of evidence which demonstrates that your bad conduct discharge was unjust, and establishes that you were unfit by reason of physical disability which was incurred in or aggravated by your military service, the Board was unable to recommend any corrective action in your case. 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