



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

JRE
Docket No: 3213-02
8 October 2002

[REDACTED]

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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 12 September 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 found that you enlisted in the Navy on 26 November 1996. You sustained a broken clavicle and a back injury on 10 August 2001. You underwent a pre-separation physical examination on 15 August 2001, and were found physically qualified for separation. The clavicle fracture was reevaluated by a physician on 23 August 2001. The area was still tender at that time, and x-ray evaluation showed no evidence of healing of the fracture. The physician felt there was a chance the fracture would "go to non-union", and cause pain. If that were to occur, you would require an open reduction and internal fixation of the fracture in about six months. He noted that you were planning to be released from active duty during September 2001, and that a procedure to fix the fracture may need to be done at a Department of Veterans Affairs (VA) facility. You were voluntarily released from active duty on 25 October 2001, and assigned a reenlistment code of RE-R1, to indicate that you were qualified and recommended for reenlistment.

The Board carefully considered your contention to the effect that you were released from active duty with the expectation of receiving disability compensation and medical care from

the VA, but that there was an inordinate delay in obtaining benefits from the VA. It found that contention insufficient to warrant the correction of your record. As noted above, you were voluntarily released from active duty after being found fit for separation. While it is unfortunate that you did not receive timely assistance from the VA, that does not provide a basis for correcting your record to show that you were retired by reason of physical disability. 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