



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

JRE
Docket No. 02927-03
28 August 2003

[REDACTED]

[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 28 August 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.

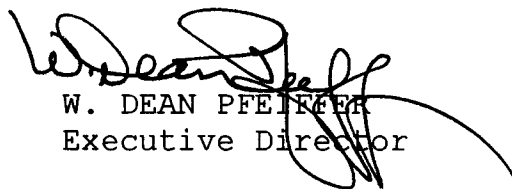
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the rationale of the hearing panel of the Physical Evaluation Board that considered your case on 17 September 2002. A copy of that rationale is attached.

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

Enclosure

Rationale:

The member is a 27-year-old SSGT, USMC, with approximately 8 and 1/2 years of service at the time of his appearance before a medical board at Beaufort Naval Hospital on 8 May 2002 with the diagnosis:

(1) CARDIAC TRANSPLANT.

The Informal PEB considered the case on 12 June 2002 and found the member unfit for continued naval service because of physical disability that was considered ratable at 30% under V.A. code 7019. The member disagreed with this finding and demanded a formal hearing.

A formal hearing was conducted on 17 September 2002 at Bethesda, Maryland, with [redacted] USN, as Presiding Officer, Lieutenant [redacted] USMC, and [redacted] MC, USN, as panel members. Lieutenant [redacted], JAGC, USNR, represented the member.

The member appeared at the hearing requesting to be found fit for continued naval service.

To support his request the member presented testimony, copies of his health record entries not already included in the PEB case file, a recent letter from his transplant surgeon, and non-medical evidence letters from his supervisors, his commanding officers, a former commanding officer, and a 15 June 2001 letter from his transplant surgeon. The member also made his health and service records available for review.

After careful review of all the available evidence and based on unanimous opinion, the Formal PEB finds the member is unfit for continued service in the U. S. Marine Corps because of physical disability. The record and evidence presented document that the member had an idiopathic dilated cardiomyopathy of such severity that he required a heart transplant in April 2001. Although he has had an outstanding recovery with excellent exercise tolerance, he requires chronic treatment with Prednisone, Prograf, and Cellcept to prevent rejection of the transplant. This makes the member more susceptible to infections. The letter from his transplant surgeon indicates he cannot be exposed to extreme conditions of dust and other pollutants or prolonged exposures to extremes of heat and cold. This also limits the member's assignability to areas near a major medical facility with transplant capability, which interferes with the adequate performance of required military duties.

The record documents an exercise tolerance to 18 minutes 41 seconds on a modified Bruce Protocol Exercise Stress Test. The member is asymptomatic. Therefore, the condition is most appropriately rated under V.A. code 7019 at the specified minimum rating of 30%.

The disability is not considered stabilized, and placement on the TDRL is most appropriate.

The disabling condition is not considered combat-related.