



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

JRE
Docket No. 04766-03
7 August 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 7 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.

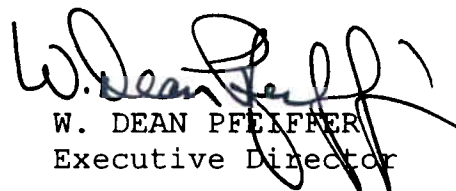
The Board rejected your contention to the effect that you consented to your release from active duty in the Marine Corps because you were being medically retired. In this regard, it noted that you were evaluated by a medical board on 10 August 1970, and given a diagnosis of allergic rhinitis, which existed prior to your enlistment, and was not aggravated by your military service. The medical board determined that as a result of that condition, you did not meet the minimum physical standards for enlistment, but that you were not considered unfit for duty by reason of physical disability. The medical board recommended that you be discharged without entitlement to disability benefits administered by the Department of the Navy.

On 28 August 1970, after being advised of the findings and recommendation of the medical board, you declined to submit a statement in rebuttal thereto, you waived your right to appear before a physical evaluation board, and requested that you be administratively discharged as soon as possible without entitlement to disability severance or retirement pay. Your request was granted, and you were discharged on 23 October 1970. Due to administrative error, your DD Form 214 indicates that you were both discharged from the Marine Corps and retired by reason of physical disability on that date. You were advised of the error several years later, and issued a DD Form 215 to correct the error. Following your discharge, the Veterans Administration awarded you a disability rating of 0%.

In the absence of evidence that demonstrates you were unfit by reason of physical disability incurred in or aggravated by your service in the Marine Corps, which was ratable at 30% or higher, there is no basis for granting your request for corrective action. 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