



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

JRE  
Docket No. 01802-08  
28 October 2008

[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 16 October 2008. 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 20 March 2001. On 12 August 2005, the Physical Evaluation Board found you fit for duty notwithstanding your condition of intercostal neuralgia. You accepted that finding on 19 August 2005. You were discharged from the Marine Corps 19 March 2006 by reason of completion of required active service, and assigned a reenry code of RE-1A.

The Department of Veterans Affairs (VA) awarded you a 0% disability rating for splenic flexure syndrome effective 20

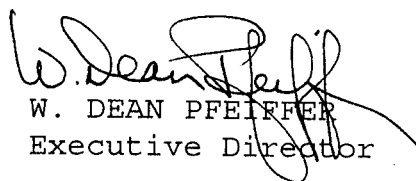
March 2005. On 3 December 2007, the VA changed the diagnosis to intercostal neuralgia, and increased the disability rating to 30% effective 20 March 2006.

In order to be separated or retired by reason of physical disability, a service member must be unfit to reasonably perform the duties of his office, grade, rank or rating by reason of physical disability. You were assigned a reentry code of RE-1 at discharge, which indicates that you were eligible and recommended for further service at that time. The fact that the VA granted you a substantial disability rating effective the day following your discharge is not probative of the existence of error or injustice in your naval record, because the VA granted that rating without regard to the issue of your fitness for military duty.

In view of the foregoing, and as you have not demonstrated that you were unfit for duty at the time of your discharge, 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