



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

JRE

Docket No. 07805-08
3 August 2009

[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 25 June 2009. 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 were discharged from the Marine Corps on 24 June 2006 for the convenience of the government due to a knee condition that was not considered a disability, but interfered with your performance of duty but did not render you unfit by reason of physical disability. You were authorized half separation pay in the amount of \$14, 818.14, and assigned a reentry code of RE-3P. On 14 May 2008, the Department of Veterans Affairs (VA) awarded you disability ratings of 50% for a mental disorder, two ratings of 10% for each knee, separate

10% ratings for tinnitus and conditions of your shoulders, lumbar spine, cervical spine, and wrists, and 0% for a scar.

The Board concluded that your receipt of disability ratings from the VA is not probative of the existence of error or injustice in your naval record, because the VA assigned those ratings without regard to the issue of your fitness for military duty on the date of your discharge. As you have not demonstrated that any of the conditions rated by the VA rendered you unfit for duty, 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