



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

JRE
Docket No. 08316-08
25 February 2009

[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 12 February 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 underwent a pre-enlistment physical examination on 27 January 1996, and completed a Standard Form (SF) 93, Report of Medical History on that date in which disclosed a history of hay fever, and denied a history of fits, nervous trouble of any sort, eye trouble, and any other illness or injury. You enlisted in the Navy on 19 June 1996. On 7 March 1997 you were evaluated for a possible seizure disorder, and you disclosed that you had had a history of similar symptoms since before you were 10 years of age. A record entry dated 11 April 1997 indicates that you had a ten-year history of seizure type movements of the facial muscles which occurred on a daily basis, and that you were unable to see and experienced double vision during the episodes, which lasted 30-90 minutes. On 16 May

1997, a medical officer described your atypical face, eye and neck movements as "quite profound". The movements included eyes looking up, shaking of the head, hitting the head with a hand, and frequent blinking. A medical record entry dated 13 June 1997 indicates that your vocal and motor tics had begun at about age 7 and had been consistent since then, without remission for any period of time. You apparently averaged 3-4 tics daily, but could have more when exacerbated by stress or anxiety. You also disclosed that you had a ritualistic compulsion to "end on an even number". You stated that you had to go through a doorway twice, for example, and could not tolerate doing anything an odd number of times. You stated that you would freeze if anyone touched you only once. You also disclosed that your mother told you that you might have been diagnosed with attention deficit hyperactivity disorder as a child. On 16 May 1997, a medical board gave you diagnoses of incapacitating movements of the face, neck and eyes, obsessive compulsive disorder, and possible Tourette's syndrome, and recommended that your case be referred to the Physical Evaluation Board. You were honorably discharged on 17 October 1997 by reason of "DISABILITY EXISTED PRIOR TO SERVICE", without entitlement to disability benefits administered by the Department the Navy.


As a preliminary matter, the Board found that changing the narrative reason for your separation would not eliminate the requirement that you obtain a waiver of your history of obsessive-compulsive disorder and incapacitating movements of the face, neck and eyes in order to be eligible for enlistment.

It was clear to the Board that prior to enlisting, you suffered from at least two conditions that were likely to interfere with your ability to effectively perform military duties. Had you disclosed those conditions when you completed a Report of Medical History on 27 January 1996, it is unlikely that you would have been permitted to enlist. In the Board's opinion, the diagnosis of possible Tourette's syndrome is little or no significance in your case, given the diagnoses of obsessive-compulsive disorder and incapacitating facial, neck and eye movements, which rendered you unfit for duty.

As you have not demonstrated that your discharge by reason of pre-existing physical disability is erroneous or unjust, 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