



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

JRE  
Docket No. 12318-08  
4 February 2010



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 January 2010. 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.

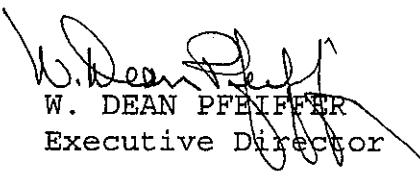
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Marine Corps on 12 June 1987 in the rank of sergeant. You received nonjudicial punishment on 6 February 1989 and 6 November 1990 for multiple unauthorized absence offenses. On 18 January 1991, you were discharged under honorable conditions by reason of unsatisfactory performance due to your failure to conform to applicable weight standards. On 17 July 2003, the Department of Veterans Affairs awarded you a disability rating of 20% for lumbosacral strain.

The Board did not accept your contention to the effect that you could not meet applicable weight standards because of the effects of a lower back condition. It noted that you were borderline overweight throughout most your career in the Marine Corps and had, in fact, been recommended for discharge in by an administrative discharge board that convened during your first enlistment in 1981. It appears that your first reenlistment may have been fraudulent in that you did not disclose that you had not been permitted to reenlist at the expiration of your first enlistment, and were assigned a restricted reenlistment code. There is no credible evidence that your overweight condition was caused by or in any way related to your lower back condition. In addition, the Board concluded that in view of the acts of misconduct you committed following your promotion to sergeant, you were not entitled to a fully honorable characterization of service. 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