



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

JRE

Docket No. 09267-09  
17 June 2010

[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 10 June 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 Reserve on 2 October 2003. On or about 18 May 2007, while serving on active duty, you received a fitness report in which you were recommended for promotion and ranked as one of the many highly qualified professionals who formed the majority of your grade of staff sergeant. You were released from active duty on 2 October 2007.


On 15 July 2008, the Department of Veterans Affairs (VA) awarded you disability ratings for a panic disorder, gastroesophageal reflux disorder (GERD), and conditions of your cervical and lumbar spines, right foot, skin and kidneys. The ratings you received for those two conditions were based in large part on your subjective report of symptoms. The VA rating examination report indicates that you had

suffered from panic attacks and anxiety symptoms since 1986 or earlier and undergone corrective surgery for GERD in 2005. The VA denied your request for service connection for numerous other claimed disabilities.

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 to reasonably perform your military duties at the time of your release from active duty. As you have not demonstrated that you were unfit for duty at that time, 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 PREIFFER  
Executive Director