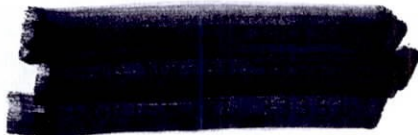




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX JRE

WASHINGTON DC 20370-5100

Docket No. 00466-11
11 February 2011



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 3 February 2011. 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.

A medical evaluation board convened on 10 September 2007 and recommended that you be referred to the Physical Evaluation Board (PEB) for a determination of your fitness for duty with respect to the diagnosis of pathological dislocation of your right shoulder. The PEB found you unfit for duty and entitled to a disability rating of 20 percent. You accepted those findings on 5 November 2007. For reasons that are not shown in the available records, you were issued a DD Form 214 on or about 31 December 2007 which indicates that were voluntarily released from active duty on that date by reason of completion of required active service, and assigned a separation code of MBK3, rather than discharged by reason of physical disability. You were assigned a reentry code of RE-1A, which indicates that you were eligible for reenlistment. On 17 April 2009, the Department

of Veterans Affairs (VA) denied your request for service connection for a right shoulder injury.

The Board noted that despite your belief to the contrary, separation code MBK3 is assigned to Marines who are voluntarily released from active duty by reason of completion of required active service. Its assignment in your case does not imply that you were released from active duty for medical reasons or that you were separated or retired by reason of physical disability. In addition, it does not indicate that you require a waiver in order to reenlist; however, a code of MBK3 is erroneous if you were in fact discharged by reason of physical disability.

In view of the foregoing, and as assigning you a separation code other than MBK3 would not accord you effective relief, 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