



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

JRE
Docket No. 03466-09
8 April 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 8 April 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 enlisted in the Navy on 29 July 2005. It appears that your enlistment was fraudulent, in that you concealed your history of a severe head injury and associated coma of five weeks' duration. You underwent psychological evaluation on 19 June 2006 and were given diagnoses of occupational problem (poor performance); history of academic problem; and rule/out cognitive disorder/post-concussion disorder. On 12 December 2006 a medical board determined that you suffered from major cognitive impairments, long-standing learning difficulties, and possible residual effects of a pre-service brain injury, and recommended that you be referred to the Physical Evaluation


Board (PEB). The PEB considered your case on 9 January 2007 and found you unfit for duty because of longstanding learning difficulties that were not incurred in or aggravated by your naval service. The PEB recommended that you be discharged without entitlement to disability benefits administered by the Department of the Navy. You were honorably discharged on 20 April 2007 in accordance with the approved findings and recommendation of the PEB.

On 18 July 2007, the Department of Veterans Affairs (VA) denied your request for service connection for status post cerebral concussion and coma with neurological deficits in cognitive ability, memory and occupational functioning. The VA rating decision indicates that imaging studies of your brain showed clear evidence of brain damage that had existed for many years.

The Board was not persuaded that your disability was incurred in or aggravated by your naval service. It also concluded that the interests of justice would not demand correction of your record under any circumstances, given the fraudulent nature of your enlistment. 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