



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

JRE

Docket No. 04280-10

10 March 2011

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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 17 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.

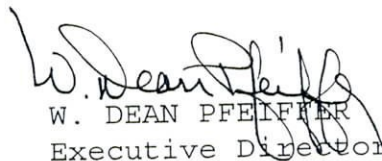
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You served enlisted in the Navy on 23 July 2008. You were examined on 6 February 2009 and found physically qualified for separation. You signed a medical record entry on that date in which you acknowledged that you had been found qualified for separation, and that some conditions, while not considered disqualifying, might entitle you to benefits from the Department of Veterans Affairs (VA). You were released from active duty and discharged by reason of erroneous entry on 18 February 2009; unfortunately, the specific basis for the determination that your enlistment was erroneous is not shown in the available records. On 22 June 2010, the Department of Veterans Affairs (VA) awarded you separate disability ratings of 10% for tinnitus and left shoulder tendonitis, as well as a rating of 30% for migraine headaches.

Your receipt of disability ratings from the VA for conditions it classified as "service connected" is not probative of the existence of material error or injustice in your naval record because the VA assigned those ratings without regard to the issue of your fitness for duty when you were released from active duty and discharged. In the absence of evidence which demonstrates that you were unfit to reasonably perform the duties of your rank by reason of physical disability on 18 February 20099376-07, or that it would be in the interest of justice to correct your record in such a manner that you would be entitled to full benefits under the GI Bill, the Board was unable to take favorable 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