



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

JRE  
Docket No. 12476-10  
7 June 2011

[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 26 May 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 enlisted in the Marine Corps on 12 July 1966 and remained on active duty until 30 January 1969 when you were transferred to the Temporary Disability Retired List (TDRL) due to a spinal disability. After reviewing the report of a periodic physical examination conducted while you were on the TDRL, the Physical Evaluation Board (PEB) reduced your disability rating to 20% and directed that you be discharged with entitlement to disability severance pay.

Your contention to the effect that you did not receive retired pay or other benefits from the Marine Corps could not be substantiated or refuted; however, it is likely that you waived your right to receive disability retired pay so that you could receive disability

compensation from the Veterans Administration. In any event, as you have not demonstrated that you should have been permanently retired by reason of physical disability on or about 31 January 1969, rather than transferred to the TDRL, or that your condition was ratable at or above 30% disabling when your name was removed from the TDRL several years later, 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