



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

WASHINGTON DC 20370-5100

Docket No. 02974-11

7 June 2011

[REDACTED]

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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 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 served on active duty in the Navy from 11 May 2004 to 25 October 2008, when you were discharged by reason of physical disability with entitlement to disability severance pay. Your unfitting condition was chronic recalcitrant tibial pain that was related to your condition of shin splints. It appears that you concurred with that disposition, as you accepted the finding of unfitness and recommendation for discharge that were made by the Physical Evaluation Board in your case. You were assigned a reentry code of RE-3P to indicate that you require a waiver of physical disqualification in order to become eligible to reenlist.

That you no longer suffer from chronic tibial pain does not demonstrate that you were discharged in error, or provide a basis for amending your reentry code, which is the most favorable code that

you could have received as a Sailor being discharged by reason of physical disability. In the absence of evidence which demonstrates that you were fit for duty on 25 October 2008, there is no basis for the Board to take favorable action on your request. 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