



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

JRE
Docket No: 1067-98
1 June 1999



Dear [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 6 May 1999. 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. In addition, the Board considered the advisory opinion furnished by a designee of the Specialty Advisor for Psychiatry dated 24 February 1999, a copy of which is attached, and your rebuttal thereto.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board concluded that in the absence of evidence which demonstrates that you were unfit by reason of physical disability in 1976 because of a mental disorder which was incurred in or aggravated by your naval service, and ratable at or above 30% disabling, there is no basis for granting 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

Enclosure

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN THE CASE OF


condition, and it is not considered to be a prodrome to a more serious depression, such as Major Depression or Bipolar Disorder.

3. If this situational depressed mood had been more serious and if it had represented an unfitting condition, one would expect to find evidence that it rendered Subject unfit to perform his duties. There is, however, no such evidence. The service record and the medical record fail to show that depression prevented him from performing in the Marine Corps. After discharge the evidence shows that he was consistently employed for years. Although the civilian psychiatry opinion includes Subject's report that he had frequent depressed moods, the documentation shows that psychiatric care was not required until almost ten years after discharge. Further, the VA psychiatrist, who saw Subject after the civilian opinion, noted only mild depression and that Subject did not require antidepressant medication at that time. It is my opinion that this history supports that the condition diagnosed while Subject was on active duty was not an unfitting condition.

4. While there is no evidence that an Axis I psychiatric condition rendered Subject unfit for duty, there is adequate evidence that a personality disorder rendered him unsuitable. Besides the psychiatric report of Jan 75, that evidence is best found in three personal observation reports in Subject's service record from his Second Lieutenant, Master Sergeant and Staff Sergeant. Those reports describe Subject's poor attitude, unwillingness to learn and accept guidance, and his "acute determination to get out of the United States Marine Corps at any and all costs." These reports show that Subject's motivation to leave the Marine Corps was voluntary and not the result of an involuntary, unfitting condition. The reports are consistent with a diagnosis of personality disorder.

5. Recommendation: The documents submitted for review do not provide evidence to warrant a correction of the naval records. No evidence was found that would have justified referring Subject to a Physical Evaluation Board prior to his discharge. The available psychiatric data from the period of active duty does not represent an unfitting condition. Subject's current psychiatric condition is separate from and not related to his psychiatric condition on active duty. He was appropriately discharged on the basis on unsuitability.


CDR MC USNR