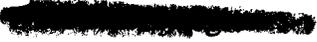




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 8108-02
19 December 2002



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 12 December 2002. 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.

The Board found that you underwent a pre-enlistment physical examination on 16 November 1988. The only positive medical history contained in the Report of Medical History you completed on that date was a history of chicken pox and "gas". You did not disclose your history of diarrhea or symptoms of lactose intolerance at that time. You subsequently enlisted in the Marine Corps Reserve, and entered on active duty for training (ADT) on 23 August 1989. You sought medical care for several minor conditions while on ADT, to include groin and abdominal pain and diarrhea. You were considered physically qualified for release from active duty when examined on 5 February 1990. It was noted in the Report of Examination that you had a tender testicle, and that you were being treated for an acute groin strain. You did not disclose any conditions you felt were disqualifying at that time. On 19 April 1993, the Chief, Bureau of Medicine and Surgery determined that you were not physically qualified for retention in the Marine Corps Reserve because of possible irritable bowel syndrome (IBS). You were discharged 18 June 1993, pursuant to your request, by reason of your being found not physically qualified, and declining to request referral to the Physical Evaluation Board. On 9 July 1993, you applied to the Department of Veterans Affairs (VA) for service

connection and disability compensation for IBS, but were denied on several occasions, in part because of an erroneous classification of your active duty service as inactive duty for training. On 8 September 1998, a member of the Board of Veterans Appeals (BVA) found that the evidence in your case was "at least in equipoise" as to the onset and origin of your IBS, and it granted you service connection for that condition. The condition was initially rated at 0%, but the rating was increased to 10% and then 30% based on your subjective reports of nearly constant abdominal distress since the onset of your condition. The 30% rating was made effective from 9 July 1993.

The Board was not persuaded that your IBS condition was incurred in or aggravated by your service during the 23 August 1989-5 February 1990 period. It noted that you had a pre-service history of bowel complaints, and that had you been diagnosed with IBS while on ADT, it is very likely that the condition would have been classified as existing prior to entry and not aggravated by your service. In any event, the available records do not demonstrate that you were unfit for duty by reason of physical disability when released from ADT, which is a prerequisite to disability separation or retirement. In this regard, it noted that unlike the VA, which rates all conditions it classifies as "service connected", the military departments are permitted to rate on those conditions which render a service member unfit for duty. The issue of compensation for any deterioration of your condition which occurred following your release from ADT is a matter within the purview of the VA, rather than the Department of the Navy.

In view of the foregoing, 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