



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

JRE

Docket No. 06293-05

21 November 2006



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 9 November 2006. 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 Head, Separation and Retirement Branch, Headquarters, U.S. Marine Corps (HQMC), dated 9 December 2005, and the Head, Enlisted Promotion Section, HQMC, dated 23 March 2006. A copy of each opinion is attached.

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 from the Head, Enlisted Promotion Section, HQMC, concerning your request for promotion to staff sergeant. The Board disagreed with the recommendation from the Head, Separation and Retirement Branch, HQMC, that your case be referred to the Physical Evaluation Board, because the available records fail to

demonstrate that the knee injury you suffered in 1999 while working at your civilian job was causally related to your service in the Marine Corps Reserve or your previous knee injury, or that the injury rendered you unfit for further service by reason of physical disability on 14 September 2001 when you declined to reenlist and were transferred to non-drilling status in the Marine Corps Reserve. The Board noted that you did not report the knee injury in the Annual Certificate of Physical Condition you completed on 4 December 1999, or the Report of Medical History you completed on 28 February 2000, when you were examined and found to be fit for military duty. You also failed to disclose your receipt of disability compensation from the Department of Veterans Affairs for a previous knee injury.

In view of the foregoing, your application has been denied. 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