



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

JRE
Docket No. 03617-06
25 July 2007

[REDACTED]

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 31 May 2007. 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 enlisted in the Navy on 13 September 2005 and served until 26 January 2006, when you were discharged by reason of erroneous entry because of chronic ankle pain that rendered you unsuitable for military service, but did not render you unfit by reason of physical disability. You were assigned a reentry code of RE-3E. The Board noted that you were discharged after you inquired about receiving an entry level medical separation, and that you declined to request a waiver of your condition in order to remain on active duty, even though Navy medical authority thought the condition was correctable. On 14

November 2006, the Department of Veterans Affairs (VA) denied your request for service connection for residuals of stress fractures of your ankles, as there was no evidence of unhealed stress fractures at that time, or of ankle conditions that were residual to the stress fractures.

It is important to note that the terms "erroneous enlistment" and "fraudulent enlistment" are not synonymous. An enlistment is considered erroneous if it would not have occurred had all relevant facts been known by Department of the Navy officials, such as your predisposition to developing ankle pain. An enlistment is considered fraudulent when it is procured through false representation of one's qualifications for enlistment, or the deliberate concealment of a disqualification. There was no fraud in your case.

The Board rejected your unsubstantiated contention to the effect that your ankle pain was caused by or related to bilateral stress fractures. It concluded that although the available records do not demonstrate that you suffered from bilateral ankle pain before you enlisted, you had a predisposition to develop that pain, and the onset of the pain was the result of the natural progression of that predisposition, rather than the result of service incurred trauma to your ankles. Had you not had that predisposition, you would have been discharged for the convenience of the government because of a condition, not a disability, that interfered with your performance of duty, and assigned a reentry code of RE-3G rather than Re-3E.

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