



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

TRG
Docket No: 4949-07
6 August 2008

[REDACTED]

[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 5 August 2008. 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 an advisory opinion furnished by Headquarters Marine Corps, a copy of which is enclosed and the documentation you submitted in rebuttal.

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 reaching its decision, the Board was aware that regulations state that a retirement date will only be modified for medical reasons if the individual requires hospitalization as an inpatient or upon acceptance of a medical board by the President of the Physical Evaluation Board. Neither exception was in effect at the time of your retirement. The Board noted the documentation you submitted showing that the doctors had placed you on medical hold. However, the Board believed that these entries probably occurred because the hospital was unaware of your status or that medical personnel did not have knowledge of this arcane provision of the regulations. Further, it is clear that you were aware that you had been retired and knew or should have known that this was a permanent change in your status. Since you have been treated no differently than others in your situation, the Board substantially concurred with the comments contained in the advisory opinion.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

A review of your record reveals that a DD Form 214 documenting your retirement is not filed in your record. You state that you

do not have a copy of the DD Form 214 either. In order to obtain a DD Form 214 you should contact Headquarters Marine Corps (MMSB-12) and request that a DD Form 214 be prepared and issued to you.

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