



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

JRE
Docket No. 08566-07
21 November 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.

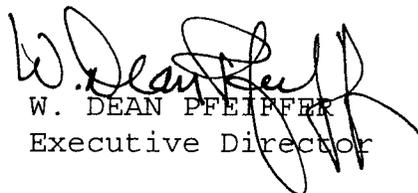
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 November 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 the advisory opinion furnished by Director, Secretary of the Navy Council of Review Boards dated 22 September 2008, a copy of which 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. 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



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON STREET SE STE 309
WASHINGTON NAVY YARD DC 20374-5023

IN REPLY REFER TO
5220

CORB: 002

22 Sep 08

From: Director, Secretary of Navy Council of Review Boards
To: Executive Director, Board for Corrections of Naval
Records

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE
OF [REDACTED]

Ref: (a) Your ltr JRE: jdh Docket No. 8566-07
(b) SECNAVINST 1850.4E

1. Documents contained in Ref (a) were reviewed in accordance with Ref (b).

2. After careful consideration, I have determined that had petitioner's case file been referred to the Department of the Navy (DoN) Physical Evaluation Board (PEB), it is likely that the PEB would have determined that the petitioner was Fit for Continued Naval Service. This conclusion is based on the available documentary evidence contemporary with petitioner's active service which includes:

a. A 01 November 2006 form, "RETURN OF A PATIENT TO MEDICALLY UNRESTRICTED DUTY FROM LIMITED DUTY," after two periods of Limited Duty for occupational therapy to treat the following:

i. S/P R LOWER EXTREMITY BLAST INJURY WITH SURAL NERVE PALSY

ii. R CALF WEAKNESS, PAIN

The record indicated that "Pt able to meet personal goals for physical fitness, stamina, etc. without discomfort" though he feels "he couldn't meet USMC Standards. Wishes to be placed on Full duty to be able to EAS 20 Jan 07."

b. A 14 November 2006 document that would appear to represent a DVA Psychiatric claim evaluation conducted at Camp Lejeune, NC which indicated that despite "some problems dealing with the public," "He generally is able to do his military job fairly well."

