



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

JRE
Docket No. 09264-07
1 August 2008

[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.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 July 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.

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.

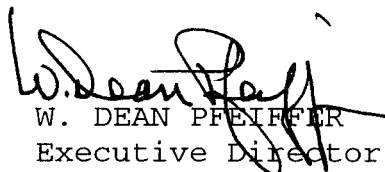
The Board found that you served on active duty in the Marine Corps from 1 September 2005 to 31 August 2006, when you were discharged because of osteochondritis dissecans, a condition of your right knee which interfered with your performance of duty, but was not considered to be a physical disability. On 22 February 2007, the Department of Veterans Affairs (VA) awarded

you a 0% disability rating for your knee condition. You were not entitled to a compensable rating because there was no ratable limitation of motion in the knee joint or objective evidence of painful motion, and it did not affected your civilian occupation as a stockman. The VA denied your request to be classified as unemployable because of the effects of knee condition.

Your receipt of a 0% disability rating from the VA does not demonstrate that you were erroneously discharged from the Marine Corps by reason of a condition, not a disability. In the absence of evidence which demonstrates that you were unfit to reasonably perform the duties of your office, grade, rank or rating by reason of physical disability, the Board was unable to recommend any corrective action in your case. 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