

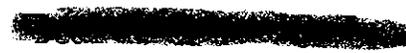


DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE

Docket No. 03938-08

3 November 2008



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 30 October 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 enlisted in the Navy on 24 September 2001. You were noted to have a congenital chest deformity at that time, but were found qualified for enlistment because the condition was felt to be asymptomatic. At some time after your enlisted, the deformity became painful and caused shortness of breath. On 26 January 2004, you underwent a surgical procedure to correct the defect; unfortunately, there were complications of the surgery, and you were not returned to full duty until February 2006. You underwent medical assignment screening on 5 April 2006, and were classified as worldwide assignable without

limitations; however, on 18 April 2006 you were found unsuitable for sea duty because of the repaired chest deformity. You underwent a medical assessment on 10 July 2006 and were considered physically qualified for separation. On 20 July 2006, you were honorably discharged by reason of a condition, not a disability, which interfered with your performance of duty. Effective 21 July 2006, the Department of Veterans Affairs (VA) awarded you disability ratings of 10% for a superficial scar that was painful on examination, and 0% for headaches. The VA denied your request for service connection for chest pain, rectal bleeding, and shortness of breath.

In order to be eligible for disability separation or retirement from the Navy, a Sailor must be unfit to reasonably perform the duties of his office, grade, rank or rating by reason of physical disability. A Sailor may be unsuitable for sea duty but considered fit for duty and not disabled, as occurred in your case. Your receipt of disability ratings from the VA is not probative of the existence of error or injustice in your naval record, because the VA assigns disability ratings without regard to the issue of fitness for military service on the date of separation.

In view of the foregoing, and as you have not demonstrated that you were improperly discharged by reason of a condition, not a disability, or that you were unfit for duty by reason of physical disability, the Board was unable to recommend 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.

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