



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

JRE
Docket No. 05140-08
23 March 2009

[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 19 March 2009. 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 Marine Corps on 28 February 1977. On 31 May 1977, a medical board gave you a diagnosis of psychogenic spastic colon, which existed prior to your enlistment. The medical board determined that you did not meet the minimum physical standards for enlistment because of that condition, and that you were not unfit for duty by reason of a physical disability that was incurred in or aggravated by your service. It recommended that you be discharged by reason of enlisted in error. After being informed of the findings and recommendation of the medical board, you declined to submit a

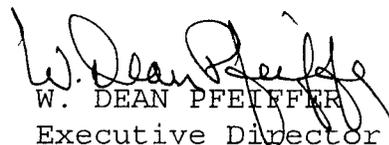
statement in rebuttal thereto. You were discharged on 6 June 1977 pursuant to the approved findings and recommendation of a medical board.

The fact that the Department of Veterans Affairs (VA) granted your request for service connection for major depressive disorder with somatoform disorder almost thirty years after you were discharged from the Marine Corps was not considered probative of the existence of error or injustice in your naval record. It appears that the VA granted your request in large part because you found qualified for enlistment physical examination on 10 February 1977. The VA ignored the findings of the medical board and the fact that you concealed a significant aspect of your medical history when you applied for enlistment. In this regard, the Board noted that when examined on 10 February 1977, you denied experiencing a recent loss of weight. Your medical board report, however, indicates that you experienced a significant weight loss as you began to experience lower abdominal pain during the year before you enlisted.

In view of the foregoing, and as Board was not persuaded that you were unfit for service by reason of physical disability that was incurred in or aggravated by your brief period of naval service, 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