



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

JRE
Docket No. 07016-08
12 January 2009



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 8 January 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 served in the Marine Corps from 27 November to 27 December 2007, when you were discharged by reason of fraudulent entry based on your concealment of a pre-service history of asthma. On 29 July 2008, the Department of Veterans Affairs denied your request for service connection for an upper respiratory infection, which it classified as an acute condition rather than a disability.

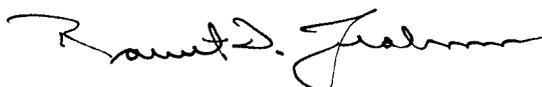
Your contention to the effect that you did not suffer from significant asthma before you enlisted, and evidence which

indicates that that you do not suffer from asthma at this time, do not establish that you were unfit for further service by reason of physical disability that was incurred in or aggravated by your brief period of naval service. Accordingly, there is no basis for granting your request for correction of your record to show that you were separated or retired by reason of physical disability, and your application has been denied. The names and votes of the members of the panel will be furnished upon request.

If you believe that the basis for your discharge should be changed from fraudulent entry to a basis other than physical disability, you should apply to the Naval Discharge Review Board by submitting the enclosed DD Form 293 to that board.

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,



ROBERT D. ZSALMAN
Acting Executive Director

Enclosure