



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

JRE
Docket No. 10767-08
7 October 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 17 September 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 Reserve on 12 July 2000. You served on active duty from that date until 23 November 2000, and from 5 February 2002 to 8 September 2003. You received a not observed fitness report for the period 1 July-30 September 2005. The report indicates that you had received the Navy and Marine Corps Achievement Medal for your performance as acting platoon sergeant during annual training, and that you had recently been promoted to sergeant. You completed your sixth year of service qualifying for Reserve retirement on 28 June 2006. You did not complete any Reserve drills or active duty service after that date. On 27 July 2007, the Department of Veterans Affairs (VA) awarded you disability ratings of 70% for posttraumatic stress disorder, 10% for each

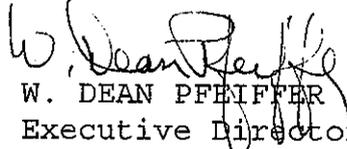
knee, and 10% for degenerative disc disease of the thoracolumbar spine, effective 17 April 2007. You were discharged from the Marine Corps Reserve on 1 September 2008 upon the completion of your eight-year statutory service commitment.

Your receipt of substantial disability ratings from the VA in 2007 is not probative of the existence of error or injustice in your naval record. The VA rates all condition incurred in or aggravated by a period of service, without regard to the issue of fitness for military duty, whereas the military departments assign disability ratings only in those cases where the service member has been found unfit to reasonably perform the duties of his office, grade, rank or rating by reason of physical disability. The available records do not demonstrate that you were unfit for duty by reason of physical disability when released from active duty in 2003, or during your subsequent service as a drilling reservist. It noted that you were promoted from E-3 to E-5 following your release from active duty, and performed your duties as an infantry Marine in an outstanding manner.

In view of the foregoing, 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