



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

TAL
Docket No: 4190-09
8 March 2010

[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 24 February 2010. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 4 December 1950. After completing only four weeks of recruit training you were admitted to the post dispensary and on 11 January 1951, you were admitted to a U.S. naval hospital. On 24 May 1951, you were the subject of a medical board evaluation that diagnosed you with Pulmonary Tuberculosis, a condition that existed prior to entry into the service. The medical board stated in part, that accepted principles indicate that such a disability may be of a permanent nature and that you were unfit to perform the duties of your rank. You were notified of the medical board recommendation that you be discharged by reason of physical disability. On 8 June 1951, you were convicted by summary court-martial of a 16 day period of unauthorized absence (UA) from your unit. On 18 June 1951, the separation authority approved your separation under honorable conditions due to physical disability. On 19 June 1951, your commanding officer submitted a presumption of fraudulent enlistment report that revealed you erroneously enlisted in the Marine Corps having been discharged from the Air Force by reason of physical disability. On 2 July 1951, the separation authority waived the fraudulent

enlistment and deferred to the medical board decision to separate you with a general discharge by reason of physical disability. On 10 August 1951, you began a 41 day period of UA from your unit until you were apprehended by civilian authorities on 20 September 1951. On 12 October 1951 you were separated due to physical disability with a general discharge.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your diagnosis of pulmonary tuberculosis, and the fact that you did not disclose that you had been previously discharged from the Air Force by reason of physical disability. 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