



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

TJR  
Docket No: 9581-09  
16 July 2010

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 13 July 2010. The names and votes of the members of the panel will be furnished upon request. 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.

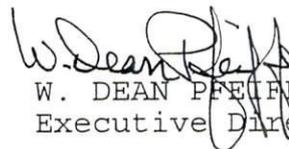
You enlisted in the Navy on 13 January 2009 at age 22 and began a period of active duty on 18 March 2009. During the period from 9 to 13 April 2009, you underwent several medical evaluations after being referred for chest pains. The medical reports stated in part, that the pains were not demonstrated by any cardiac or respiratory condition. During these evaluations you reported a history of numerous visits, prior to your enlistment in the Navy, over a period of several years for chest pains. The medical reports stated that because of your chest pains you were unable to participate in training or perform required tasks and that you were unable to fulfill any physical requirements. At that time you stated that you felt being discharged would be best for you. Subsequently, you were recommended for an administrative separation and encouraged to seek follow-up care with a civilian medical provider.

On 16 April 2009 you were notified of pending administrative separation action by reason of fraudulent entry due to concealment of a condition that existed prior to your enlistment. At that time you waived your right to consult with legal counsel and to submit a statement in rebuttal to the aforementioned notification. Your commanding officer recommended you be separated from the Navy with an uncharacterized entry level separation by reason of fraudulent entry through deliberate material misrepresentation, omission, or concealment of a condition or circumstances that existed prior to entry in the Naval Service. This recommendation was approved and on 23 April 2009 you were so separated and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to change your narrative reason for separation. It also considered your assertion that because you contracted illnesses while serving in the Navy that required medical treatment after you were separated, and were not properly diagnosed by military hospital corpsmen, the Navy should be responsible for payment of your Tricare bills. Nevertheless, the Board concluded these factors and assertion were not sufficient to warrant relief because of your fraudulent entry in the Navy through deliberate material misrepresentation or concealment of a condition that existed prior to entry. The Board concluded that your type of discharge and narrative reason for separation were proper and sufficiently supported by the documentation in the record. Accordingly, your application has been denied.

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