



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

JRE
Docket No. 04094-10
4 March 2011

[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 February 2011. 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.

You served in the Marine Corps from 28 May 1997 to 27 May 2002 when you were released from active duty and transferred to the Marine Corps Reserve (USMCR). You were considered physically qualified for service at that time. You were mobilized from 9 April to 16 December 2004 and 1 June 2005 to 26 March 2006, and served in combat during the latter period. You received a report of fitness covering the 1 October 2005-1 March 2006 period which contains highly laudatory comments concerning your exceptional service and leadership ability. You transferred to the Individual Ready Reserve in an inactive status effective 1 June 2006, and were honorably discharged from the USMC Reserve on 24 February 2008 by reason of completion of required service.

You submitted a claim for disability benefits to the Department of Veterans Affairs (VA) on 12 October 2009. On 24 March 2010 the VA awarded you a disability rating of 50% for posttraumatic stress disorder with panic disorder and agoraphobia. The VA rating officials who made that award found no objective evidence in your naval health record that was pertinent to your claim, and they noted that there was no record of treatment for, or a diagnosis of, posttraumatic stress disorder in those records. The rating officials also noted that you completed a post-deployment checklist on 14 January 2006 in which you indicated that you felt you were in great danger of being killed during your second deployment.

Your receipt of a disability rating and compensation from the VA in 2010 is not probative of the existence of material error or injustice in your naval record, because the VA acted without regard to the issue of your fitness for duty on 26 March 2006, when you were released from active duty. In the absence of evidence which demonstrates that you suffered from posttraumatic stress disorder while on active duty, and that you were unfit to reasonably perform the duties of your rank because of the effects of that disorder, the Board was unable to take favorable action on your request. 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