



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

JRE  
Docket No. 04422-10  
22 April 2011

[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 3 March 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 enlisted in the Marine Corps on 24 January 2005. On 30 January 2007 the Physical Evaluation Board (PEB) made preliminary findings that you were unfit for duty by reason of physical disability due to a left talar beak without evidence of tarsal coalition. The PEB classified your bilateral pes planus, left calcaneal and cuboid exostosis, and chronic left ankle pain as category 2 conditions that are related to the unfitting condition but not ratable. You accepted the findings of the PEB on 8 February 2007, and waived your right to a formal hearing. You were discharged in accordance with the approved findings of the PEB on 31 March 2007. You were assigned a reentry code of RE-3P to indicate you require a waiver of physical disqualification in order to become eligible for reenlistment.

The Board concluded that your receipt of disability ratings from the Department of Veterans Affairs (VA) for a depressive disorder, patellofemoral syndrome, wrist strain, hand contusion, and left ankle strain, is not probative of the existence of error or injustice in your naval record because the VA awarded those ratings without regard to the issue of your fitness for military duty as to those conditions. As you have not demonstrated that any of those conditions rendered you unfit for duty by reason of physical disability at the time of your discharge, the Board was unable to recommend 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