



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

JRE
Docket No. 04658-10
22 February 2011

[REDACTED]

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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.

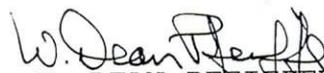
You enlisted in the Marine Corps on 30 November 2004. On 13 January 2005, you reported that you had experienced constant numbness and tingling in the fourth and fifth digits of your right hand since the start of boot camp. In addition, you reported that the fifth digit had deviated toward the ulnar aspect (outside) of your right wrist for the past two years, which you failed to disclose when you applied for enlistment. You denied a history of trauma to your right hand and/or fingers. The condition was diagnosed as neuropathy of the right ulnar nerve which existed prior to your enlistment and was not aggravated by your service. Although the condition was not considered

disabling, it did interfere with your ability to complete entry level training. You were considered physically qualified for separation on 8 February 2005. You were discharged for the convenience of the government on 18 February 2005 by reason of a condition, not a disability, which interfered with your performance of duty. On 23 January 2008, the Department of Veterans Affairs (VA) awarded you a disability rating of 10% for peripheral neuropathy, right ulnar nerve effective 27 November 2007. Although VA rating officials could not determine whether or not the condition was the result of an in-service injury, they granted your request for service connection based on the fact that the report of your pre-enlistment physical examination was negative for any pre-existing condition. The VA did so notwithstanding the fact that that you failed to report the outward deviation of your right fifth finger during that examination, and that military physicians determined that your condition existed prior to your enlistment.

The Board rejected your unsubstantiated contention to the effect that the condition of your right hand and fingers was caused by an in-service injury. In addition, the Board was not persuaded that you were unfit for duty by reason of physical disability that was incurred in or aggravated by your very brief period of service in the Marine Corps. The fact that the VA awarded disability compensation is not probative of the existence of error or injustice in your naval record, because the VA did so without regard to the issue of your fitness for military service on 18 February 2005. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to correct your record in such a manner that you would be entitled to full benefits under the Post 9/11 GI Bill, 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