



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

JRE  
Docket No. 04787-10  
22 February 2011



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.

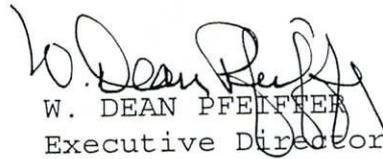
On 24 April 2009, the Physical Evaluation Board (PEB) made preliminary findings that you were unfit for duty by reason of physical disability due to lumbosacral spondylosis which was rated at 20% disabling under Department of Veterans Affairs (VA) code 5237. You accepted those findings on 28 May 2009 and waived your right to a formal hearing before the PEB. You were discharged from the Marine Corps with entitlement to disability severance pay on 30 July 2009. Effective 31 July 2009, the VA awarded you separate disability ratings of 10% for pseudofolliculitis barbae of the face and conditions of your lumbosacral spine, left hip, left ear, and esophagus. The rating for the spinal condition was increased to 100%

for the 3 May-30 June 2010 period, due to your hospitalization. The rating was reduced to 20% effective 1 July 2010.

The Board concluded that your receipt of disability ratings from the VA is not probative of the existence of error or injustice in your naval record, because the VA assigned those ratings without regard to the issue of your fitness for duty on the date you were discharged from the Marine Corps. As there is no indication in the available records that you were unfit for duty on 30 July 2009 due to the effects of any of the additional conditions rated by the VA, the Board was unable to recommend favorable action in your case. 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