



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

JRE
Docket No. 05180-10
24 June 2011

[REDACTED]

Dear [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 23 June 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.

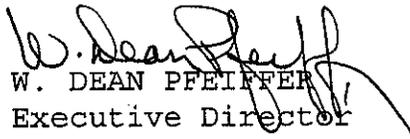
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You served on active duty in the Marine Corps from 23 February 2004 to 31 December 2007, when you were discharged by reason of physical disability because a condition which caused you to experience episodes of syncope (fainting). Effective 1 January 2008, the Department of Veterans Affairs (VA) awarded you separate disability ratings of 10% for the syncope, tinnitus, cervical strain, and an adjustment disorder, for a combined rating of 30%. Your combined rating was increased from 30 to 50% effective 11 September 2008, and to 80% effective 30 October 2009, at which time you were granted "individual unemployability" which entitled you to disability compensation at the 100% rate.

Your receipt of disability ratings from the VA for conditions not rated by the Department of the Navy 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 military duty vis-à-vis those conditions. The Board noted that an adjustment disorder is classified by the military departments as a "condition, not a disability", and is not ratable. In addition, although the VA may amend disability ratings and rate additional conditions at any time during a veteran's post-service lifetime, fitness and rating determinations made by the military departments are fixed as of the date of the service member's separation or permanent retirement. As you have not demonstrated that you were entitled to a disability rating from the Department of the Navy of 30% or higher, there is no basis for taking 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