



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

JRE
Docket No. 07776-09
1 November 2010



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 28 October 2010. 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.

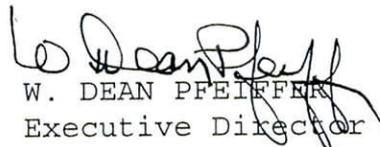
You served on active duty in the Marine Corps from 16 June to 4 October 1967, when you received an undesirable discharge by reason of misconduct due to your fraudulent entry into the Marine Corps. Following your discharge, the Department of Veterans Affairs awarded you a combined disability rating of 0% for residuals of a bilateral condition of your upper extremities.

The Board could not find any indication in the available records that you were unfit for duty by reason of physical disability on 4 October 1967. It noted that you would not have been entitled to disability separation or retirement even if you had been unfit for duty because your discharge by reason of misconduct would have taken precedence over and precluded disability evaluation processing. In addition,

the Board was not persuaded your discharge by reason of fraudulent enlistment was erroneous or unjust, or that it would be in the interest of justice for the Board to upgrade your discharge. 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