



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

WJH  
Docket: 11493-10  
14 September 2011

[REDACTED]

[REDACTED]

This is in reference to your application for correction of naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 September 2011. Your allegations of error and injustice were reviewed in accordance with the 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. In addition, the Board considered the advisory opinions furnished by the Commandant of the Marine Corps letters CMC 1741 MMSR-4 of 13 Jan 2011 and CMC 1741 MMSR-4 of 25 Apr 2011, copies of which are attached and were previously furnished to you.

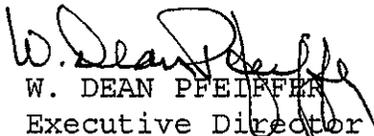
The Board also considered your request for a personal appearance, however it found that the issues in the case were adequately documented and that a personal appearance would not materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

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. In this connection the Board substantially concurred with the comments contained in the advisory opinion CMC 1741 MMSR-4 of 25 Apr 2011. Review of

your record shows that in approximately August 2008, the Physical Evaluation Board recommended that you be retired due to physical disability. Records show that you met with a counselor and accepted the PEB findings. A non-medical assessment at the time states that you no longer wished to be continued on active duty. The advisory opinion states that Headquarters United States Marine Corps "discussed continued service and retirement options" with you, including "the negative impact of not completing 20 years of active duty," but that you "requested disability retirement." In the Board's view, as an experienced officer, you were fully capable of weighing your options at the time. You were counseled on the "the negative impact of not completing 20 years of active duty." There is no evidence of fraud, duress, or misrepresentation at the time you accepted the PEB findings and sought to be released from active duty. You were free to request continuation on active duty if you had wanted to. In the Board's view, you knowingly and willingly accepted the PEB findings and sought release from active duty (and be retired for physical disability) and there is no reason to now invalidate your decision. 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 also 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