



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

JRE
Docket No: 7219-01
23 October 2001

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 4 October 2001. 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.

The Board rejected your contention to the effect that you did not suffer from a disqualifying condition of your temporomandibular joint (TMJ) during your period of naval service from 3 to 30 October 1996. In this regard, it noted that you were rejected for service in the Army because of a TMJ related condition, and that you later received a waiver of that condition, but declined to reenlist. Navy recruiting officials apparently accepted the previously granted waiver, and found you physically qualified for enlistment based on your representation that the TMJ condition was quiescent at that time. Shortly after entering on active duty, however, you complained of bilateral TMJ pain, and reported that you had a two to three year history of a TMJ condition. You were discharged on your twenty-eighth day of service based on your failure to meet minimum physical standards for enlistment. You were assigned a reenlistment code of RE-4, which is the only code authorized for Sailors discharged for that reason. The Board noted that you did not rebut any information contained in the recommendation for discharge, or otherwise object to the discharge at that time. The fact that a private physician who examined you on 25 June 1996 found no evidence of TMJ dysfunction was not considered probative of the existence of error or

injustice. In this regard, the Board noted that you were discharged from the Navy based on your history and subjective complaints. You apparently did not have those complaints when examined by your physician when you were attempting to qualify for enlistment. 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