



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

JRE
Docket No: 4463-02
26 November 2002



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 31 October 2002. 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 found that you underwent a pre-separation physical examination on 16 February 2001. Although you disclosed an extensive medical history, you were found physically qualified for separation. The only significant defects noted by the examiner in item 43 of the report of examination, entitled Summary of Defects and Diagnoses, were mild bilateral hearing loss and high cholesterol level. You failed to disclose any conditions you felt were disqualifying, despite being admonished to do so, and you characterized your health as good. You were discharged from the Marine Corps on 2 May 2001, based on your failure to pass the physical fitness test (PFT). On 18 June 2001, the Department of Veterans Affairs (VA) awarded you disability ratings of 0% for the hearing loss, a right ankle condition, left ankle condition, and scars on your extremities, and 10% ratings for ringing in your ears, varicose veins, and conditions of your shoulders and right wrist, for a combined rating of 40%.

The Board noted that although the VA must rate all conditions as "service connected", regardless of their effects or degree of severity, the military departments are permitted to rate only those conditions which render a service member unfit to perform the

duties of his office, grade, rank or rating, by reason of physical disability. The Board was unable to conclude that any of the minor conditions rated by the VA, either singly or in combination, rendered you unfit for duty. In addition, it appeared to the Board that your failure to pass the PFT was the result your lack of conditioning, rather than being due to the effects of any of your physical complaints.

In view of the foregoing, 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