



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

JRE
Docket No: 7197-01
10 May 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 25 April 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 enlisted in the Navy on 20 March 2001. Your left knee became painful on 1 April 2001, after you completed a one mile run. The pain became chronic, despite rest, medication and prescribed therapy. Your condition was assessed as tendinitis and patello-femoral pain syndrome. You were discharged from the Navy on 17 May 2001 by reason of a condition, not a disability, interfering with your performance of duty. Following your discharge, you sought care from civilian sources, and it appears that your condition improved, although it did not completely resolve.

The Board noted that in order to be entitled to disability benefits administered by the Department of the Navy, a service member must be unfit to perform the duties of his or her office, grade, rank or rating by reason of a physical disability incurred in or aggravated by military service. It appears that you were unable to withstand the rigors of recruit training because of your knee pain, but not unfit by reason of physical disability. It was therefore appropriate to separate you without entitlement to disability benefits.

The Board rejected your unsubstantiated contention to the effect that you did not receive proper medical treatment while in the Navy, and that you had no choice but to leave the Navy. In addition, it noted that even if you had been considered unfit by reason of physical disability, your condition would not have been rated above 10% disabling, and as you did not complete at least six months of service, your discharge would have been without entitlement to disability severance pay or other disability benefits administered by the Navy.

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