



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

TRG

Docket No: 7650-07  
31 January 2008

[REDACTED]

[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 24 January 2008. 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 enlisted in the Delayed Entry Program (DEP) of the Marine Corps Reserve on 7 February 1975 at age 18. On 4 August 1975 you enlisted in the Regular Marine Corps for four years. On 3 August 1979 you were released from active duty with your service characterized as honorable. Subsequently, you were issued an honorable discharge at the end of your military obligation.

You have submitted documentation showing that you are being denied retirement credit by the State of New York because you did not serve on active duty during the Vietnam Era. The Vietnam Era is the period from 28 February 1961 to 7 May 1975. You are requesting that your record be corrected to show that you were on active duty during the period at issue. You point out that you entered the DEP on 7 February 1975 and were delayed in reporting to active duty until 4 August 1975 without good cause or warning of loss of benefits.

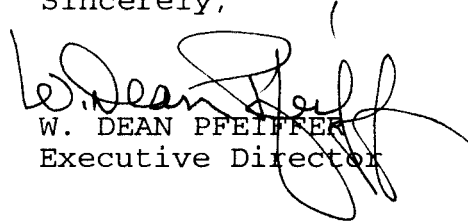
The DEP program was used at the time of your enlistment and is used now to spread out the flow of accessions of new recruits on active duty. When you enlisted in the DEP, you agreed that you would not report to active duty until a later date. It is clear that a Marine Corps recruiter in 1975 would not have any knowledge of a possible benefit loss 30 years later. As

indicated, you did not enlist in the Regular Marine Corps until 4 August 1975. Since there is no error in your record, there is no basis for the relief you seek.

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