



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

JRE
Docket No. 11037-08
7 October 2009

[REDACTED]

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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 17 September 2009. 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 served on active duty from 27 February 1984 to 25 June 1992, when you were released from active duty and transferred to the Marine Corps Reserve. Effective 23 July 1998, while you were serving as a member of the Selected Reserve, the Department of Veterans Affairs (VA) awarded you disability ratings of 50% for posttraumatic stress disorder and 10% for frontal and temporal lobe dysfunction. As a result of that rating action, your case was referred to the Bureau of Medicine and Surgery for review. On 20 July 1999, the Chief, Bureau of Medicine and Surgery determined that you were not physically qualified for retention in the Marine Corps Reserve due to posttraumatic stress disorder, anxiety disorder and

rheumatoid arthritis. After being advised of the options available to you, you elected to request transfer to the Retired List of the Marine Corps Reserve with entitlement to retired pay at age 60. Your request was made pursuant to the Reserve Transition Benefit Program which provided for early qualification for retired pay for Marines who had been found not physically qualified for service and had completed between 15 and 20 years of service qualifying for Reserve retirement. Your request was granted, and you were transferred to the Retired Reserve effective 1 November 1999.

The Board concluded that the available evidence is insufficient to demonstrate that you were unfit for duty by reason of physical disability when you were released from active duty in 1992, or that any of the conditions for which you have received VA ratings were incurred in or aggravated by your service in the Marine Corps Reserve. The Board concluded that there is no basis for granting your request for correction of your record to show that you were retired by reason of physical disability on or about 1 November 1999, vice transferred to the Retired Reserve. 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