



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

JRE
Docket No. 00290-10
25 October 2010

[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 21 October 2010. 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 Navy on 7 September 2001. You underwent a pre-separation physical examination on 23 October 2006, and disclosed an extensive medical history at that time; however, none of the conditions your reported were considered disqualifying for service. You were released from active duty and discharged on 6 December 2006.

Effective 7 December 2006, the Department of Veterans Affairs (VA) awarded you separate disability ratings of 10% for bilateral flatfoot, left shoulder chronic tendonitis, tinnitus, and retrograde amnesia, for a combined rating of 30%. You underwent a pre-enlistment physical examination on 1 February 2007 and were found physically qualified. You enlisted in the Navy Reserve on 15 February 2007. On 4 September 2007, you completed a Report of Medical History in connection with your impending deployment in which you specifically

denied having applied for a pension or compensation for a disability. You reported that you had minor pain in your joints but no loss of function or limitations, and that you had sustained a blast injury. You indicated that you had been found fit for full duty prior to your discharge from the Navy after recovering from the blast injury, and again upon your return to the Navy Reserve, and that you had no residual medical issues. You were found fit for full duty, deployable world-wide, and without limitations or medical complaints on 4 September 2007. You entered on active duty on that date. Your entitlement to VA disability compensation was suspended for the period of your mobilization. You completed a DD Form 2796 on 28 August 2008 in which you described your health as very good, and denied having any medical or dental problems that had developed during your deployment. In addition, you denied planning to seek counseling or care for your mental health, and indicated that you did not have concerns about possible exposures or events that occurred during the deployment that you felt might affect your mental health. You were found fit for demobilization on 28 August 2008 and released from active duty on 2 October 2008. You were assigned a reentry code of RE-1, to indicate that you were qualified and recommended for further service.

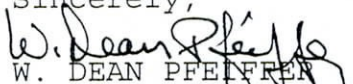
On 1 January 2009, the VA reinstated the disability ratings that it had suspended for the period of mobilization. The VA confirmed your combined disability rating of 30% on 28 April 2009. You were discharged from the Navy Reserve on 27 May 2009 by reason of physical fitness assessment failure.

In the absence of evidence which demonstrates that you were not physically qualified for release from active duty on 2 October 2008, or that you were unfit for duty by reason of physical disability on 27 May 2009, when you were discharged by reason of physical fitness assessment failure, the Board was unable to recommend any corrective action in your case. 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