



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

JRE
Docket No. 01148-10
28 May 2010



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 28 May 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 4 August 1993. It appears that your enlistment was fraudulent in that you failed to disclose your pre-service history of shortness of breath and breathing difficulties when you applied for enlistment. You sought medical care on 25 October 1993 because of your inability to run due to shortness of breath. On 27 October 1993 a medical board recommended that you be discharged without entitlement to disability benefits based on your inability to perform physical training or meet enlistment physical standards, your past history of breathing difficulties, in-service symptomatology, and pulmonary function test results. On 2 November 1993, after being advised of the findings and recommendation of the medical board, you declined to submit a statement in rebuttal thereto. You were discharged on 18 November

1993 with an uncharacterized entry level separation by reason of your failure to meet procurement medical standards. You completed three months and fifteen days of service.

The fact that the Department of Veterans Affairs (VA) has recently granted your request for service connection for asthma based on its finding that the asthma was "first diagnosed" while you were on active duty, does not establish that you were unfit for duty by reason of physical disability that was incurred in or aggravated by your brief period of naval service. 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