



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

JRE  
Docket No. 03536-10  
11 February 2011

[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 3 February 2011. 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 Marine Corps on 28 May 2003. On 25 April 2007, the Physical Evaluation Board (PEB) made preliminary findings that you were fit for duty notwithstanding the residual effects of the wounds you had received on 22 April 2004 when an improvised explosive device was detonated near you. You accepted the findings of the PEB on 7 May 2007, and were honorably released from active duty on 27 May 2007 by reason of completion of required active service. As you were eligible and recommended for reenlistment at that time, you were assigned a reentry code of RE-1A. Effective the day following your release from active duty, the Department of Veterans Affairs (VA) awarded you separate disability ratings of 10 percent for seven conditions, as well as a 30 percent rating for posttraumatic stress disorder.

The Board found that your receipt of disability ratings from the VA is not probative of the existence of error or injustice in your Marine Corps record, because the VA assigned those ratings without regard to the issue of your fitness for military duty on 27 May 2007. As indicated above, you were found fit for duty by the PEB, and you accepted that finding. In the absence of evidence which demonstrates that you were unfit to reasonably perform the duties of your office, grade, rank or rating on 27 May 2007 by reason of physical disability, the Board was unable to recommend favorable action on your request. 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