



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

JRE
Docket No. 04033-10
14 February 2011



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 10 February 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 entered on active duty in the Marine Corps Reserve on 5 July 1994. You underwent a pre-separation physical examination on 28 November 1994 and were found qualified for release from active duty. You did not disclose a history of any condition that you felt rendered you unfit for duty, despite being admonished to do so if any such conditions existed. You were released from active duty on 29 December 1994. In a letter dated 14 April 1995, a podiatrist advised "whom it may concern" that you suffered from [REDACTED] with [REDACTED], right and left [REDACTED] by [REDACTED] pain with strenuous training activities, and that he felt that you were unable to fulfill your duties in the Marine Corps. On 13 December 1995, the Chief, Bureau of Medicine and Surgery, found you not physically qualified for retention in the Marine Corps Reserve because of that condition. On 29 May 1996, after being advised of

your rights in connection with your proposed administrative separation by reason of lack of physical qualification, you waived your right to request review of your case by a physical evaluation board, and requested that you be discharged by reason of being found not physically qualified for further service. You were discharged pursuant to your request on 11 July 1996.

In view of the foregoing, and as you have not demonstrated that on 29 December 1994 you were unfit for duty by reason of physical disability that was incurred in or aggravated by your brief period of active duty service, the Board was unable to recommend 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