



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

JRE

Docket No. 10876-10

22 April 2011

[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 21 April 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.

The Board did not accept your contention to the effect that you discovered the alleged error or injustice in your record in 2009, as it is clear that you were aware of the basis of your separation in 1987.

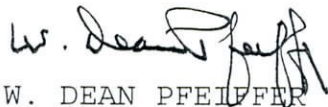
You enlisted in the Marine Corps on 27 January 1987. It appears that your enlistment was fraudulent in that you failed to disclose your pre-service history of back pain and scoliosis. Shortly after your entry on active duty, you sought treatment for back pain and reported that you had had chronic pain since you were injured in a motor vehicle accident about eighteen months earlier. You also disclosed a pre-service history of scoliosis. On 8 September 1987, a medical board gave you a diagnosis of thoracic kyphoscoliosis, existed prior

to enlistment, and recommended that you be separated from the Marine Corps without entitlement to disability benefits administered by the Department of the Navy. You signed a statement on that date in which you acknowledged that you had been advised of the findings and recommendation of the medical board. You also waived your right to a hearing before a physical evaluation board, requested that you be administratively discharged as soon as possible, and acknowledged that you were not required to waive your rights, and affirmed that you had signed the statement voluntarily. You were discharged from the Marine Corps on 8 October 1987 in accordance with the approved findings and recommendation of the medical board.

The Board was not persuaded that you sustained a significant injury to your back while you were serving on active duty. As you failed to demonstrate that you were unfit for duty by reason of physical disability that was incurred in or aggravated by your naval service, 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