



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No. 13827-10

7 June 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 26 May 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 served on active duty in the Marine Corps from 29 December 2003 to 28 December 2007, when you were voluntarily released from active duty at the completion of your required period of active service. You were assigned a reentry code of RE-1A to indicate that you were qualified and eligible for reenlistment. On 25 January 2008, the Department of Veterans Affairs (VA) awarded you a disability rating of 30% for posttraumatic stress disorder effective 29 December 2007. On 8 November 2008, the VA increased that rating to 50% and made it effective from 5 September 2008.

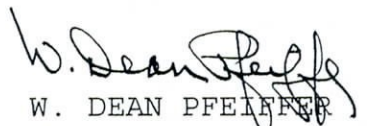
Your receipt of disability ratings from the VA for posttraumatic stress disorder is not probative of the existence of error or injustice in your naval record because the VA awarded those ratings without regard to the issue of your fitness for military duty on the

date of your release from active duty. The fact that you were initially awarded a rating of 30% suggests that VA rating officials did not believe your condition was severe enough to have caused your release from active duty, which would have required a rating of 50% or higher under the provisions of 38 Code of Federal Regulations 4.129. Notwithstanding your contention to the contrary, you did undergo mental health screening while on active duty. During July 2006, you were given a diagnosis of "combat stress reaction" and recurrent major depressive disorder which existed prior to your enlistment. You were prescribed anti-depressant medication at that time, and instructed to return if your symptoms worsened. Notably, you failed to disclose the disqualifying diagnosis of major depressive disorder when you completed a Report of Medical History on 6 November 2003 in connection with your application for enlistment. It appears that VA rating officials either overlooked or disregarded your pre-service history of a mental disorder, as VA rating officials attributed all of your psychiatric symptoms to the effects of posttraumatic stress disorder.

In the absence of evidence which demonstrates that, on 28 December 2003, you were unfit to reasonably perform the duties of your rank by reason of physical disability that was incurred in or aggravated by you service in the Marine Corps, 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