



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

JRE  
Docket No. 08926-07  
23 February 2009



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 20 February 2009. 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. In addition, the Board considered the advisory opinion furnished by a designee of the Specialty Leader for Psychiatry, Bureau of Medicine and Surgery, dated 24 October 2008, a copy of which is attached, and your response thereto.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion; however, it concluded that that the actions taken in your case by the Department of Veterans Affairs (VA) do not give credence to your claim for disability benefits from the Department of the Navy. The VA based its diagnostic and rating determinations on its acceptance of your subjective representations concerning your alleged symptoms. The Board concluded those representations are self-serving and unworthy of belief. It concluded that in view of the fraudulent nature of your enlistment, which you

procured by lying about and concealing your disqualifying medical history, you cannot be considered a reliable historian.

As the Board was not persuaded that you were unfit for duty by reason of physical disability that was incurred in or aggravated by your naval service, or that you suffered from posttraumatic stress disorder prior to your discharge from the Navy, it had no basis for granting your request for correction of your record to show that you were separated or retired by reason of physical disability. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider your request for re-characterization of your service as honorable because you did not exhaust an available administrative remedy by applying to the Naval Discharge Review Board for upgrade of your general discharge.

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

Enclosure