



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

JRE  
Docket No. 02569-08  
15 June 2009

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your grandson's 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 11 June 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 grandson's 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 found that your grandson enlisted in the Navy on 18 February 1997. He received nonjudicial punishment on four occasions for offenses which included failures to obey lawful orders and assault. He underwent a pre-separation physical examination on 3 August 1999 and was found qualified for separation. He was discharged under other than honorable conditions on 11 August 1999 by reason of misconduct/commission of a serious offense.

The Board was not persuaded that your grandson was unfit for duty by reason of physical disability on 11 August 1999, or that he lacked mental responsibility for his actions. It noted that

he would not have been entitled to disability separation or retirement even if he had been unfit for duty, as a discharge by reason of misconduct would have taken precedence over disability evaluation processing. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade his discharge as a matter of clemency, 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