



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

TRG
Docket No: 8043-08
11 June 2009

Dear [REDACTED]

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 9 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 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.

Your record shows that you were released from active duty in the Navy on 6 August 1993 with more than five years of service and an honorable characterization of service. The next entry in the record shows that you enlisted in the Navy Reserve on 15 March 2006 for three years.

You state in your application that you were excused from attending drills beginning on 27 August 2007 because you were selected to be a member of the Border Patrol and were attending classes at a Federal Law Enforcement Training Center. Apparently in December 2007 you resigned from the Border Patrol.

On 10 January 2008 a notification of separation processing by reason of unsatisfactory participation was sent to you by registered mail. It appears that on 11 January 2008 you signed this notification and declined to make a statement. After review, a general discharge by reason of unsatisfactory participation was directed and you were so separated on 1 February 2008. A nonrecommendation for reenlistment is required when an individual is discharged due to unsatisfactory participation.

You contend in your application that you notified your reserve unit of your acceptance into the Border Patrol and were improperly charged with missed drills while attending the training.

A statement of service for reserve retirement was obtained and it shows that in the almost 11 month period from the beginning of your anniversary year on 15 March 2007 until your discharge on 1 February 2008 you were only credited with 16 of 44 scheduled drills. Since you were only undergoing training for about three months, there appears to be other instances of missed drills. Further, when you were given the opportunity to contest your discharge processing, you waived your rights and accepted it. This action certainly suggests that there was a basis for the separation processing. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted.

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