



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

DJC
Docket No. 10458-08
10 November 2009

Dear [REDACTED]

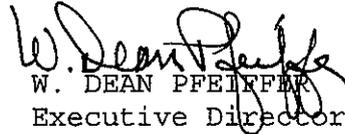
This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 November 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 CNP ltr 1430 1530 Ser N133D/ dtd 26 Feb 09, and Under Secretary of Defense Memorandum of 21 May 2008 (SECDEF memo), copies of which are attached.

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 and the policies and procedures stated in the SECDEF memo. Your application seeks the payment of the unpaid portion of your Enlisted Supervisor Retention Program Bonus. The Board noted that you were retired for disability, that was not incurred in a combat zone or the result of a combat related operation. In accordance with the SECDEF memo, in such circumstances, repayment of the unearned portion of the ESRP Bonus which has already been paid will not be sought. However, there is no entitlement to the unpaid portion of the bonus which has not yet been paid or earned. The Board found that withholding the unpaid portion was in keeping with the policy expressed in the SECDEF memo, was not against equity or good conscience and was not contrary to the best interest of the United States. 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

Enclosures