



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

JRE

Docket No. 04848-09

5 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 29 May 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.

The Board found that you were separated from the Navy with a bad conduct discharge on 5 April 2003, pursuant to the approved findings and sentence of a special court-martial which convicted you of lengthy periods of unauthorized absence.

The Board could not find any indication in the available naval records that you were unfit for duty by reason of physical disability on the date of your discharge. The Board noted that you would not have been entitled to disability separation or retirement even if you had been unfit for duty, because your conviction by special court-martial and bad conduct discharge

would have precluded disability evaluation processing. 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.

You may apply for upgrade of your bad conduct discharge by completing the enclosed DD Form 293 and submitting it to the Naval Discharge Review Board.

You should note that you may qualify for benefits administered by the Department of Veterans Affairs based upon your service prior to your reenlistment on 1 December 1997.

Sincerely,


W. DEAN PFEIFFER
Executive Director

Enclosure