



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

JRE
Docket No. 04872-09
20 July 2009

[REDACTED]

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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 16 July 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 reenlisted in the Navy on 20 July 1984 with 3 years, 11 months and 14 days prior active service. You completed a Report of Medical History on 7 August 1988 in which you denied having a history of depression, excessive worry, frequent difficulty sleeping, and nervous trouble of any sort. You were discharged under other than honorable conditions on 22 September 1988 by reason of misconduct-drug abuse.

On 28 January 2008, the Department of Veterans Affairs (VA) determined that your discharge under other than honorable conditions, which was based in part on your record of one

nonjudicial punishment and two incidents of drug abuse. On 30 October 2008 the VA awarded you service connection and a 50% rating for posttraumatic stress disorder that was thought to have been incurred during your first enlistment. That disorder allegedly resulted from your participation in a naval gunfire mission off the coast of Beirut, Lebanon in September 1983, and the handling of casualties of the bombing of the Marine Corps barracks that occurred on 23 October 1983. The VA verified your participation in the fire mission. Your alleged participation in casualty assistance on 23 October 1983 was not substantiated.

The Board concluded that there is no credible evidence that you suffered from posttraumatic stress disorder during your second period of service or that you were unfit for duty by reason of physical disability at the time of your discharge. In addition, it noted that you would not have been entitled to disability separation or retirement even if you had been unfit for duty because your discharge by reason of misconduct would have taken precedence over disability evaluation processing. Accordingly, and as you have not demonstrated that you were discharged in error, or that it would be in the interest of justice for the Board to upgrade your discharge, 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