



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

JRE

Docket No. 05377-09
18 December 2009

[REDACTED]

[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 17 December 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 honorably discharged from the Navy Reserve on 29 February 1996 at the expiration of your enlistment, and that you were recommended for reenlistment at that time. Although you had received minor injuries in an automobile accident while traveling to a period of inactive duty training, for which you received a Notice of Eligibility for Disability Benefits for the period of recovery from the acute effect of the injuries. In addition, you were medically excused from drills to undergo corrective surgery. There is no indication in the available records that the residual effects of

the injuries rendered you unfit to reasonably perform the duties of your rank at the time of your discharge.

The fact that the Department of Veterans Affairs initially awarded you minimal disability ratings for the residual effects of your minor injuries is not probative of the existence of error or injustice in your naval record, because the ratings were assigned without regard to the issue of your fitness for military duty. The subsequent increases in the VA ratings, and the assignment of ratings for additional conditions such as reportedly painful scars on your face, were based on your condition at the times the ratings were assigned, rather than at the time of your discharge.

In view of the foregoing, 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