



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

JRE  
Docket No. 05598-09  
14 August 2009

[REDACTED]

[REDACTED]

This is in reference to your request for further consideration of a previous application for upgrade of your discharge and a new request for correction of your record to show that you were separated or retired by reason of physical disability. The Board did not reconsider your request for upgrade of your discharge because you did not submit any new material evidence in support of that request.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your new application on 6 August 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.

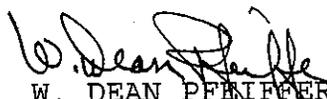
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this regard, it could find not indication in the available records that you were unfit to reasonably perform your duties by reason of physical disability when you were discharged for the good of the service in lieu of trial by court-martial. In addition, the Board found that even if you had been unfit for duty at that time, you would not have been entitled to disability retirement or separation because

your request for discharge in lieu of trial by court-martial would have taken precedence over disability evaluation processing. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board did not consider your request for correction of your name because you have not exhausted an available administrative remedy by requesting that the Commander, Navy Personnel Command, take appropriate corrective action in that regard.

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