



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

JRE
Docket No. 06117-09
18 June 2010

[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 June 2010. 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.

You served on active duty in the Marine Corps from 6 September 2005 to 30 October 2008, when you were discharged under other than honorable conditions by reason of drug abuse. On 3 June 2009, the Department of Veterans Affairs (VA) issued an administrative decision which is to the effect that your two periods of unauthorized absence of a total duration of 85 days did not render your service dishonorable for VA entitlement purposes. It appears that the VA was not aware of your drug abuse, as it did not address that issue in its administrative decision.

Although it appears that you may have been unfit for service by reason of physical disability at the time of your discharge, you were not

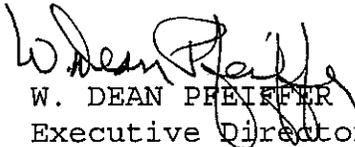
entitled to disability separation or retirement because a discharge by reason of misconduct takes precedence over disability processing.

In view of the following, and as you have not demonstrated that you lacked mental responsibility or that it would be in the interest of justice to excuse your misconduct, 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 upgrade of your discharge because you have not exhausted an available administrative remedy by submitting an application to the Naval Discharge Review Board.

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