



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

JRE
Docket No. 06638-09
1 October 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 30 September 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 in the Navy from 11 December 2001 to 11 May 2006 when you were discharged, without objection from you, for the convenience of the government due to a physical or mental condition that interfered with your performance of duty but was not considered disabling. Reportedly, your depressive symptoms were attributable to stress associated with being on a submarine. The Department of Veterans Affairs (VA) awarded you separate disability ratings of 10% for tinnitus and a depressive disorder effective 12 May 2006. The VA rating decision indicates that your depressive symptoms had subsided by December 2006, you were doing well in law school, and that you no longer took antidepressant medication. A VA physician gave you were given a diagnosis of adjustment disorder by history. The rating for the depressive disorder was increased to 30% in 2009.

The Board was not persuaded that you were unfit for duty by reason of physical disability when you were discharged for the convenience of the government in 2006. Although you suffered from a depressive disorder and made a suicide attempt while you were assigned to a submarine, you were considered unsuitable for military service rather than unfit by reason of physical disability. The fact that the VA awarded you disability ratings for ringing in the ears and a mental disorder is not considered probative of the existence of error or injustice in your record, because the VA assigned those ratings without regard to the issue of your fitness for military duty. Accordingly, and as you have not demonstrated that it would be in the interest of justice to permit you to retain the unearned portion of your reenlistment bonus, 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