



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

JRE
Docket No. 07428-09
26 April 2010



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 15 April 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 Navy from 23 August to 23 December 2005 when you were discharged by reason of erroneous entry due to chronic knee pain. It appears that the basis for your discharge was a determination that your knee pain was a manifestation of your inability to withstand the rigors of military training that existed prior to your enlistment. As you were not unfit for duty by reason of physical disability you were not eligible for a "medical discharge". A possible alternative basis for your separation would have been the convenience of the government due to a condition, not a disability, which interfered with your performance of duty.

Regardless of the specific basis of your separation, you were not entitled to receive a characterized separation because you were discharged while you were in an entry level status, which runs from the date of enlistment to the date of completion of 180 days of service.

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