



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

BJG

Docket No: 7500-09  
28 May 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 26 May 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. The Board found that you entered active duty in the Navy on 26 July 1990. On 22 March 2007, you pled guilty at a general court-martial to conduct unbecoming an officer and a gentleman for fraudulently filing false Overseas Housing Allowance documents and leasing agreements claiming that you were renting property in order to obtain increased payments each month. You received \$21,401.04 in unauthorized funds. You were sentenced to a punitive letter of reprimand and forfeitures of \$1,600.00 pay per month for 18 months. You

were required to show cause before a Board of Inquiry (BOI) as to why you should be allowed to remain on active duty. On 9 August 2007, the BOI found that you had committed misconduct and recommended that you be separated with a general discharge. On 28 December 2007, the discharge authority approved the BOI's recommendation, and you were so discharged on 6 February 2008.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your many years of honorable service. However, the Board concluded that your discharge should not be set aside or that you be retired because of your serious misconduct. Regarding your counsel's argument that you were denied due process since the BOI report was not provided to him in a timely manner for rebuttal, the Board particularly noted that you were scheduled to receive an honorable discharge on 1 January 2008 for failing twice of selection for promotion to commander, pay grade O-5. The Board found the discharge authority made his decision on 28 December 2007, the last business day prior to when you would have received an honorable discharge. The Board also noted that you were fortunate to receive a general discharge, because normally when an individual is separated for misconduct, he is given an other than honorable characterization of service. In view of the above, 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

Copy to:  
