



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

JRE

Docket No. 07689-09

20 October 2009

[REDACTED]

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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 24 September 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.

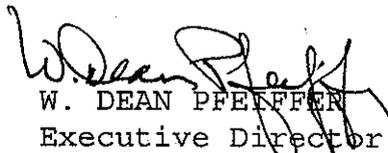
The Board found that you enlisted in the Navy on 6 May 1970. You were absent without authority on two occasions during your enlistment, and convicted by summary court-martial. On 24 September 1970 you disclosed a disqualifying history of depression and confinement in a psychiatric hospital. You were given a diagnosis of a character disorder, probably passive-aggressive, punctuated by frequent episodes of depression with suicidal ideation and true suicidal risk. You were discharged by reason of unsuitability on 16 October 1970, having completed 4 months and 26 days of service. The Department of Veterans Affairs (VA) awarded you disability ratings of 10% for tinnitus

and 0% for bilateral hearing loss effective 9 May 2002, and denied your request for service connection for "drugs, alcoholism", posttraumatic stress disorder, and a personality disorder. On 9 April 2004, the VA granted you entitlement to a non-service connected pension for mental disorders that were not incurred in or aggravated by your naval service.

The Board found that your enlistment was fraudulent in that you concealed a disqualifying history of psychiatric treatment and hospitalization. The Board was not persuaded that you were unfit for duty by reason of physical disability that was incurred in or aggravated by during your brief period of naval service. It concluded that your receipt of disability ratings and a non-service connected pension more than thirty years after you were discharged from the Navy is not probative of your contention that you should have been separated or retired by reason of physical disability in 1970. Accordingly, 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 PFEFFER
Executive Director