



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

JRE
Docket No. 08905-09
8 June 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 3 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 enlisted in the Navy on 8 April 2002. On 28 October 2003 you acknowledged that there had been no significant medical problems since your last physical exam, and a medical officer certified that you had been found physically qualified for separation, and had no debilitating or disqualifying disease. You were discharged on 31 October 2003 by reason of alcohol abuse rehabilitation failure. Effective 1 November 2003, the Department of Veterans Affairs (VA) awarded you disability ratings of 30% for migraine headaches and 50% for depression that was related to the headaches. The VA determined that you were unemployable effective 19 May 2009.

Your receipt of disability ratings from the VA for migraine headaches and related depression is not probative of the existence of material error or injustice in your Navy record, because the VA assigned those ratings without regard to the issue of your fitness for military duty on 31 October 2003. As you were found physically qualified for separation from the Navy, and have not demonstrated that you were unfit to reasonably perform the duties of your office, grade, rank or rating by reason of physical disability on that date, the Board was unable to recommend any corrective action in your case. 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 PFEIFFER
Executive Director