



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

WJH
Docket No. 11210-09
1 March 2010

[REDACTED]

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This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 March 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.

The Board notes that you have applied for a correction to your record for an error that allegedly occurred almost twenty years ago. Under the rules governing this Board, an application for a correction of a naval record must be made within three years after the discovery of the alleged error. Failure to file within the prescribed three years may be excused only in cases where the Board finds that it is in the interests of justice to do so.

Navy enlisted advancements are based on a competitive system which considers a variety of performance factors including a candidate's overall performance, technical knowledge, military proficiency, performance of duty, conduct, education, physical fitness, time in service, time in grade, experience, awards, decorations, and the like. Before any candidate may be advanced, the candidate must have the favorable recommendation of their commanding officer. Personnel within each rating (job) compete with each other for a limited number of promotion vacancies. Only those qualified candidates for whom vacancies exist are advanced. In such cases, service record entries are made (often accompanied by a short ceremony and delivery of a certificate memorializing the advancement) which actually effects the advancement. The absence of a service record showing the effective date of an advancement indicates that a candidate was not actually advanced.

A review of your naval personnel records reveals the following. While serving as a member of the US Navy on active duty in the grade of CTA3 (E-4), you became qualified for future advancement to CTA2 (E-5). While awaiting your advancement date, you were afforded the administrative privilege of wearing the uniform of the higher pay grade without entitlement to the pay and allowances of the higher grade. This privilege, known as "frocking", is a custom intended to provide early recognition for members qualified in all respects and awaiting a future advancement. Frocking does not change the permanent status of a member and it is not an advancement or promotion. You were specifically told that you were not entitled to pay or other allowances until actually advanced.

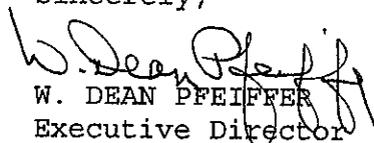
Before being actually advanced, you were honorably discharged from active duty on 19 February 1980. Because you had not yet been advanced, you were discharged as an CTA3 (E-4). Your "Certificate of Release or Discharge from Active Duty" (DD 214) which bears your signature, properly reflects your rank at discharge as CTA3 (E-4).

After careful and conscientious consideration of the entire record, the Board determined that there is insufficient evidence of an error or injustice that would warrant any relief. The Board found that it is not in the interests of justice to excuse the three year time limit in your particular case. You neglected to assert your claim for an inordinately long period of time without justification. You have provided no evidence as to why you did not seek to have the alleged error corrected earlier.

Based on all the circumstances described 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