



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

JRE
Docket No. 11211-09
26 August 2010

[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 5 August 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 Marine Corps on 29 May 1990. You received nonjudicial punishment on two occasions during your enlistment for offenses which included making a false official statement, failure to obey a lawful order, conspiracy to commit fraud, and violation of orders. You were discharged by reason of misconduct/minor disciplinary infractions on 27 May 1993.

Although you had a long history of low back pain while on active duty, you were not entitled to be separated or retired by reason of physical disability because your discharge by reason of misconduct precluded such action. In addition, there is no indication in your naval record that you were suffering from posttraumatic stress disorder prior to

your discharge, or that your acts of misconduct were related to an undiagnosed mental disorder.

In view of the foregoing, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge to honorable, 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