



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

JRE
Docket No. 11974-09
11 December 2009



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 10 December 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 were discharged from the Navy on 17 June 1993 with a bad conduct discharge, pursuant to the approved sentence of a general court-martial which had convicted you, pursuant to your pleas of guilty, of forgery, fraud against the United States, making false official statements, and two offenses in violation of Article 134, Uniform Code of Military Justice.

The Board concluded that your receipt of a 0% disability rating from the Department of Veterans Affairs for posttraumatic stress disorder more than ten years after you were discharged is not

probative of the existence of error or injustice in your naval record. In this regard, the Board was not persuaded that the misconduct which resulted in your discharge was related to the effects of undiagnosed posttraumatic stress disorder, or that you were unfit for duty by reason of physical disability at that time. The Board noted that you would not have been entitled to disability retirement even if you had been unfit for duty, because your conviction by general court-martial and bad conduct discharge would have taken precedence over disability evaluation processing. The Board also concluded that you have failed to demonstrate that it would be in the interest of justice for it to upgrade your bad conduct discharge. 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