



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

SJN
Docket No: 012194-09
11 December 2009

[REDACTED]

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 8 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

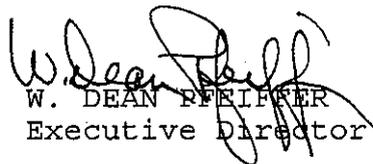
You enlisted in the Navy and began a period of active duty on 22 January 1986 at age 22. You served without incident for over two years until 2 June 1988, when you submitted a request for a hardship discharge due to your wife's medical condition. On 25 May 1988, it was determined that you met the requirements to request such a discharge, and your commanding officer forwarded it strongly recommending approval on 13 June 1988. Your request was approved and you were honorably discharged on 1 September 1988.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of honorable service, and the reason for your hardship discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant giving you credit for three years of active duty service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believed that you may be eligible for certain veterans' preference through the Office of Personnel Management (OPM). On 30 November 1999, the President signed into law the Veterans Millennium Health Care and Benefits Act. This new law amends the Veterans Employment Opportunities Act (VEOA) of 1998 in several important ways, one of which authorizes OPM to regulate the circumstances under which veterans who have substantially completed an initial tour of military service, but who are released short of the three year minimum service required in the original VEOA, may be given veterans' preference. Whether or not you are eligible for preference based on this amendment is a matter under the cognizance of OPM. If you have been denied this preference, you should appeal that denial under procedures established by the OPM.

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