



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

JRE
Docket No. 04112-10
4 May 2010



[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. As your request for upgrade of your bad conduct discharge was denied by the Board on 22 October 1997, and you have not submitted any new material evidence of error or injustice in connection with that discharge, the Board limited its review to your request for correction of your record to show that you were separated or retired by reason of physical disability.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 April 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 31 October 1978. You received nonjudicial punishment on three occasions for absence, drug and theft offenses. You underwent a pre-separation physical

examination on 25 June 1980 and were found qualified for separation. You completed a report of medical history at that time in which you denied having a history of any mental disorders or nervous trouble of any sort. You were separated from the Navy on 5 June 1981 with a bad conduct discharge upon the completion of the appellate review of your conviction by special court-martial.

The Board was not persuaded that you were suffering from posttraumatic stress disorder at the time of your discharge or that you were unfit for duty by reason of physical disability. It noted that you would not have been entitled to disability separation or retirement even if you had been unfit for duty because your conviction by court-martial and punitive separation would have taken precedence over disability evaluation processing. 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