



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

WJH
Docket: 7001-10
8 Nov 2010

[REDACTED]

[REDACTED]

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 the allegations contained in your application on 8 November 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. In addition, the Board considered the advisory opinion furnished by the Chief of Naval Operations letter 7220 Ser N130C3/10U0692 of 22 Sep 2010, a copy of which is attached.

The Board noted that you have applied for a correction to your record for an error that allegedly occurred in approximately 1988. 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 in cases where the Board finds that it is in the interests of justice to do so.¹ In your case, you

¹ One of the primary purposes of this time limit is to reduce the burden on the Navy of retaining records

neglected to assert your claim for an inordinately long period of time without justification. You have provided no compelling evidence as to why you did not seek to have the alleged error corrected earlier. Accordingly, the Board found that it is not in the interests of justice to excuse the three year time limit in your particular case.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Chief of Naval Operations (CNO Code N130) is the Navy's program manager for Beneficial Suggestions. CNO Code N130 has been unable to find evidence that would substantiate your claim that an error occurred in 1988. The delay in asserting this claim, which is attributable to you, has prejudiced Code N130's ability to determine whether your claim has merit or not.

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 also 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,

indefinitely. As we all know, with the passage of time, memories fade, laws change, entitlements change and documents can be lost. The United States is not expected to hold all records in perpetuity and has greater difficulty determining the merits of a claim for entitlements 10 or 15 years after an event than it does within 2 or 3 years of an event. The time limit is also based on the legal theory of laches. Laches is a doctrine that essentially states that a right or claim will not be allowed if a delay in asserting the right or claim has prejudiced another party. Laches is based on the legal concept that equity aids the vigilant and not those who procrastinate regarding their rights.

the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director

Enclosure