



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

JRE
Docket No: 6819-01
11 October 2002



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. You requested numerous amendments to your DD Form 214..

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 September 2002. 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. It also considered the submission of your counsel.

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. Your alleged transfer to the Naval Reserve in 1992, if it in fact occurred, was erroneous, as the discharge authority directed that you be discharged under other than honorable conditions by reason of misconduct. The Board noted that there is no basis for amending a DD Form 214 to reflect subsequent service. Your claim for additional sea service credit and awards and decorations for the period ending on 15 October 1992 is unsubstantiated. The alleged error in the address of your next of kin is an insignificant matter not warranting consideration by the Board. You were not entitled to be retired by reason of physical disability in 1992 because you have not demonstrated that you were unfit to perform your duties by reason of physical disability at that time. In addition, as a discharge by reason of misconduct takes precedence over disability evaluation processing, you would not have been entitled to disability evaluation even if you were arguably unfit for duty. It is significant that as late as 5 October 1998, the Department of Veterans Affairs determined that you did not suffer from any service connected conditions rated above 0% disabling. Although the Board upgraded your discharge to general several years ago, as a matter of clemency, that action did not excuse your misconduct, or alter the underlying basis for your discharge.

In view of the foregoing, 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