



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

JRE

Docket No. 03582-10
11 February 2011

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 3 February 2011. 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.

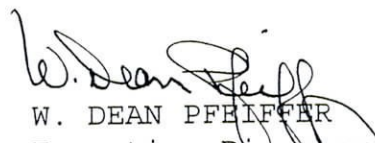
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You served on active duty in the Navy from 27 April 2009 to 2 February 2010, when you received a general discharge by reason of misconduct due to the commission of a serious offense. The report of a compensation and pension examination conducted by the Department of Veterans Affairs (VA) on 18 May 2010 indicates that you had a longstanding pre-service history of depression and abuse of cannabis, cocaine, heroin and "all [the drugs] you can name". On 11 June 2020 the Department of Veterans Affairs granted your request for service connection for mild bronchial asthma and hearing loss, and denied requests for "pre-hypertension", alcohol withdrawal seizures, alcoholism, major depression with anxiety features, and insomnia.

The Board was not persuaded that you were unfit for duty by reason of physical disability due to mild asthma or any other condition that was incurred in or aggravated by your brief period of service in the Navy. It found that you would not have been entitled to disability separation or retirement even if you had been unfit for duty by reason of physical disability, because your discharge by reason of misconduct would have taken precedence over, and most likely precluded, disability evaluation processing. In addition, given the fraudulent nature of your enlistment, which you procured by concealing your disqualifying history of poly-drug abuse and symptoms of a mental disorder, the Board concluded that it would not be in the interest of justice to grant your request under any circumstances. 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