



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

JRE
Docket No: 2370-01
26 February 2002



Dear 

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 31 January 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.

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.

The Board found that you enlisted in the Navy on 27 April 1977. You were hospitalized from 13 to 24 August 1977, with a diagnosis of drug induced organic brain syndrome. A report of psychiatric evaluation conducted during that period indicates that you had served in Vietnam during a prior enlistment in the Army. You did not report a history of traumatic combat experiences, but stated that you had received a concussion in a mine explosion. Upon discharge from the hospital, the diagnosis was revised to tension headaches, moderately severe, existed prior to entry in the service. You were returned to full duty, and considered fit for same. You were convicted by special courts-martial on 21 October 1977 and 9 June 1978, of larceny and a lengthy unauthorized absence, respectively. You were discharged from the Navy under other than honorable conditions on 10 September 1979, pursuant to your request for discharge for the good of the service in lieu of trial by court-martial for two absences without authority of a total duration of about 8 months.

The Board noted that a discharge for the good of the service in lieu of trial by court-martial takes precedence over and precludes disability evaluation processing. In addition, it noted

that in order to be separated or retired by reason of physical disability, a service member must be unfit to perform the duties of his office, grade, rank or rating because of a disabling condition. The Board could find no credible evidence which demonstrates that you were suffering from post traumatic stress disorder during your Navy enlistment, that you lacked mental responsibility for your actions, or that you were unfit by reason of physical disability. It concluded that your service was properly characterized by a discharge under other than honorable conditions, and that there is no basis for upgrading that characterization. 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