



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

CRS
Docket No: 2688-08
24 November 2008

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 October 2008. 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 6 June 1952. You received three nonjudicial punishments and were convicted by a special court-martial. Your offenses included multiple periods of unauthorized absence and conduct of a nature to bring discredit upon the armed forces.


On 9 November 1954 your commanding officer recommended that you be separated from the Navy with an undesirable discharge by reason of unfitness. After being informed of the recommendation you elected to waive all rights. The recommendation was approved by the separation authority, and you received an undesirable discharge on 26 November 1954.

In its review of your application, the Board carefully considered your contentions to the effect that you should have been discharged by reason of physical disability because of a severe leg injury, and that you were issued an honorable discharge certificate. The Board found that you were examined on 26 November 1954 and found fit for separation, notwithstanding the residual effects of a leg injury you sustained two years earlier. You would not have been entitled to disability separation even if the leg injury had rendered you unfit for duty, because your

administrative discharge would have taken precedence over and precluded disability processing. As it is clear that you were discharged under other than honorable conditions, the Board concluded that the honorable discharge certificate you submitted was either issued in error or is a forgery. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge as a matter of clemency, 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