



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

JRE

Docket No. 00987-09

5 March 2010

[REDACTED]

[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 25 February 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.

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 regard, the Board noted that you were discharged because of a condition, not a disability, which interfered with your performance of duty. There is no credible evidence that you were unfit for duty by reason of physical disability that was incurred in or aggravated by your brief period of naval service. Your receipt of disability compensation from the Department of Veterans Affairs (VA) is not probative of the existence of error or injustice in your naval record, because the VA awards disability compensation without regard to the issue of the veteran's fitness for military duty on the date of his separation from the service. As you were not discharged by reason of physical disability, there is no basis for

permitting you to receive or retain any bonus payments for service you did not perform. 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