



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

JRE  
Docket No. 02771-09  
7 June 2010



[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 28 May 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.

You were discharged from the Navy on 25 January 2006 by reason of alcohol abuse rehabilitation failure. Effective 26 January 2006, the Department of Veterans Affairs (VA) awarded you separate disability ratings of 10% for a knee condition, bradycardia and a depressive disorder, and 0% ratings for high blood pressure and facial and head trauma with residuals of scar formation. On 2 October 2009, the VA awarded you a rating of 40% for a mild traumatic brain injury based on its determination that there was objective evidence of what appeared to be a brain injury with resulting mild impairment of your judgment. It attributed the foregoing an injury you sustained on 28 February 1994, when you were struck on the head with a bottle.

Your receipt of disability ratings from the VA is not probative of the existence of error or injustice in your naval record because the VA assigned those ratings without regard to the issue of your fitness for military duty on 26 January 2006. As you have not demonstrated that you were unfit to reasonably perform the duties of your office, grade, rank or rating by reason of physical disability on that date, was unable to recommend any corrective action in your case. 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