



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

JRE
Docket No. 06066-09
24 August 2009



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 13 August 2009. 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 served on active duty in the Navy from 24 February 1999 to 14 March 2006 when you were released from active duty and transferred to the Temporary Disability Retired List (TDRL) due to migraine headaches. You were diagnosed with sleep apnea while you were on the TDRL, and after undergoing treatment for that condition, you no longer suffered from migraine headaches. On 10 February 2009, the Physical Evaluation Board noted the improvement in your condition, and found you fit for duty. You accepted that finding on 12 February 2009.

The Board did not accept your unsubstantiated contention to the effect that although you accepted the finding of fitness because you had not been not properly advised of the consequences of that decision. Accordingly, and as you have not demonstrated that you were unfit for duty when the PEB considered your case I 2009, 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