



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

TJR
Docket No: 9551-09
16 July 2010

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 July 2010. The names and votes of the members of the panel will be furnished upon request. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 27 September 1986 under the Delayed Entry Program (DEP) approximately one year prior to reporting for active duty. In this regard, your period in the DEP is inactive service and is "not" a period of time you actually served in the Navy. Nonetheless, on 9 September 1987, you began a period of active duty and served without disciplinary incident.

Your record contains medical documentation which reflects that on 30 November 1988 you were diagnosed with back problems, specifically, Neurogenic bladder, Cauda Equina Syndrome, which is secondary to herniated L4-5 discs, and an adjustment disorder with anxiety. It further reflects that you refused treatment and were subsequently recommended for an administrative separation.


As a result, you were notified of an administrative separation by reason of convenience of the government due to a diagnosed physical disability. At that time you did not object to the separation and waived your procedural rights. Shortly thereafter, your commanding officer recommended an honorable

discharge. The discharge authority approved the recommendation and directed your commanding officer to issue you an honorable discharge by reason of physical disability with severance pay, and on 20 March 1989, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your overall satisfactory service and desire to have your inactive DEP time included as time served in the Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant relief because you had not entered recruit training and were not performing on active duty as an enlisted Sailor in accordance with Navy regulations during your DEP period. In other words, DEP is considered as a period used for deciding the possibility of service in the armed forces. Accordingly, your application has been denied.

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