



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 5184-98

23 August 1999

Dear [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 19 August 1999. 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 were evaluated by a medical board on 14 July 1987. It determined that you had significant impairment of your knee, and recommended that your case be referred to the Central Physical Evaluation Board (CPEB) for a determination of your fitness for further service. The CPEB made preliminary findings in your case, but disability proceedings were ultimately terminated without final action because of your discharge by reason of misconduct/drug abuse on 27 January 1988.

The Board noted that a discharge by reason of misconduct takes precedence over and precludes disability separation processing. It did not accept your contention to the effect that your drug abuse was related to maltreatment you were allegedly subjected to after you injured your knee, and that the drug abuse should be excused on that basis. In the absence of evidence which demonstrates that your discharge by reason of misconduct was erroneous or unjust, the Board 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