



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

TJR
Docket No: 7289-09
10 June 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 8 June 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 1 May 1977 at age 19 and served for about nine months without disciplinary incident. However, during the period from 17 February to 1 December 1978 you received nonjudicial punishment (NJP) on three occasions for four periods of unauthorized absence (UA) totalling 46 days and missing the movement of your ship.

During the period from 21 July to 7 December 1979 you received four more NJPs for disrespect, wrongful possession of a butterfly knife, three periods of absence from your appointed place of duty, two specifications of disobedience, a 16 day period of UA and missing the movement of your ship.

On 5 March 1980 you were convicted by summary court-martial (SCM) of two periods of UA totalling eight days, missing the movement of your ship, breaking restriction, and wrongful appropriation of an ensign flag and staff. You were sentenced to confinement at hard labor for 30 days and a \$300 forfeiture of pay. Shortly thereafter, on 2 April 1980, you were notified of pending

administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After waiving your procedural rights to legal counsel and an administrative discharge board (ADB), your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities as evidenced by your record of NJPs and a SCM. On 2 May 1980 the discharge authority approved this recommendation and directed your commanding officer to discharge you under other than honorable conditions by reason of misconduct, and on 21 April 1980, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertion of being improperly recruited and inducted in the Navy. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repeated misconduct which resulted in seven NJPs and a SCM. Finally, there is no evidence in the record, and you submitted none, to support your assertion. 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