



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

TJR
Docket No: 8799-07
6 November 2008



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 5 November 2008. 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 16 June 1989 at age 19 and served without disciplinary incident until 20 November 1990, when you received nonjudicial punishment (NJP) for an eight day period of unauthorized absence (UA). Less than a month later, on 13 December 1990, you received NJP for a five day period of UA.

Your record contains an administrative remarks entry dated 7 February 1991 which states, in part, that you had successfully completed Level II treatment and were assigned to a one-year aftercare program. You were advised at that time that your failure to comply with the program could result in an administrative discharge. On 27 June 1991 you received NJP for two periods of UA totalling nine days and missing the movement of your ship. Shortly thereafter, on 3 July 1991, you were diagnosed with alcohol dependency and recommended for Level III treatment.

Subsequently, on 23 October 1991, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 15 November 1991 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct. On 20 November 1991 the discharge authority directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct, and on 27 November 1991, 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, post service conduct, and desire to upgrade your discharge. It also considered the reference letters provided in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in three NJPs. 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