



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

SJN
Docket No: 09753-07
21 November 2008

[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 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 reenlisted in the Navy on 31 January 1984 after five years of honorable service. On 23 May and 7 September 1985, you received nonjudicial punishment (NJP) for 24 days of unauthorized absence (UA), missing movement, and drunk and disorderly conduct. You were counseled and warned that further misconduct could result in administrative discharge action. On 21 and 30 September 1985, you received NJP for two instances of disobedience, two brief periods of UA, and breaking restriction.

On 26 September 1985, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. You waived your right to consult with counsel, submit a statement or have your case heard by an administrative discharge board (ADB).

On 31 October 1985, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 9 November 1985 the discharge authority directed an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 26 November 1985 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, overall record of your last period of service, and your accomplishment of nine years of sobriety. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of four NJP's, two of which were imposed after you were counseled and warned of the consequences of further misconduct. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. 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 PFENFFER
Executive Director