



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

SMW  
Docket No: 10216-07  
10 July 2008

[REDACTED]

[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 9 July 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.

On 18 October 1988, you reenlisted in the Navy at age 24. On 21 August 1991, you had nonjudicial punishment (NJP) for three instances of unauthorized absence (UA). On 23 August 1991, a psychiatric evaluation found that you were psychiatrically fit for duty and responsible for your actions. On 4 November 1991, you had NJP for a brief instance of UA and failure to obey a lawful order. On 2 December 1991, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge. On 6 January 1992, you had NJP for drunk and disorderly conduct. You were given a urinalysis in 1992, and based on the information currently contained in the record, it appears that it tested positive for an illegal drug. On 31 May 1992, you received medical treatment for acute alcohol intoxication and were diagnosed as having a passive aggressive personality disorder.

On 19 June 1992, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse and commission of a serious offense. In connection with this processing, you acknowledged that separation could result in an OTH discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 25 June 1992, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 7 August 1992, you were so discharged.

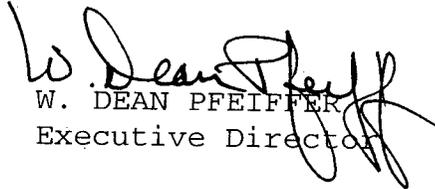
The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and prior period of honorable service. The Board also considered your contention that some of your misconduct may have been attributed to an incident when you disobeyed orders to save the lives of fellow soldiers. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your misconduct that continued after you were warned that further infractions could result in an OTH discharge. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Regarding your contention, the Board noted that you received a Navy Commendation Medal for your performance of duty on 15 June 1991, which you received about two months before your first NJP. Also, there is no evidence in the record to show that any of your disciplinary actions were due to disobedience of orders to save the lives of fellow soldiers. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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.

The Board noted that as a result of your prior honorable service, you may be eligible for veterans' benefits. You

should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director