



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

SMS  
Docket No: 653-08  
12 September 2008



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 10 September 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 25 September 1980, you enlisted in the Navy at age 18. During the period 20 November to 23 December 1981, you had three nonjudicial punishments (NJP's). Your offenses included conspiracy and bringing an illegal on board a naval vessel, failure to obey a lawful order, drunkenness, possession of an illegal weapon, disrespect, being intoxicated while on board ship and in a restriction status, and drunk and disorderly conduct.

On 24 December 1981, your commanding officer initiated administrative separation by reason of misconduct due to frequent discreditable involvement, but later held the discharge action in abeyance pending a substance abuse evaluation. On 30 June 1982, you began residential alcohol rehabilitation and it appears that your treatment was

terminated on 28 July 1982, due to your misuse of a government vehicle. You then served without incident until 18 August 1983, when you had NJP for use and possession of marijuana. On 7 September 1983, a substance abuse evaluation found that you were not dependent on drugs.

Based on the information currently contained in the record, it appears that your commanding officer subsequently initiated administrative separation by reason of misconduct due to frequent discreditable involvement, but later reprocessed the administrative separation recommendation by reason of misconduct due to a pattern of misconduct and drug abuse. In connection with this processing, it appears that you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 10 October 1983, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 19 October 1983, 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 desire for a better discharge. The Board also considered your belief that your discharge would change after six months. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to your misconduct. Furthermore, there is no provision in the law or regulations that allows for recharacterization due solely to the passage of time. 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. 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.

Sincerely,



W. DEAN PFEIFFER  
Executive Director