



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

SMS
Docket No: 2195-08
6 November 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 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 25 September 1989, you enlisted in the Navy at age 18. On 27 December 1989, you had nonjudicial punishment (NJP) for a brief instance of unauthorized absence (UA). You were also 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 15 March 1990, you had NJP for an unspecified period of UA and you were warned that further infractions could result in disciplinary action or an OTH discharge. On 29 March and 17 May 1990, you had NJP for disrespect and five instances of UA. On 13 July 1990, a medical evaluation diagnosed you as being alcohol dependent.

On 26 August 1990, you were convicted by a special court-martial of two instances of UA, disrespect, disobedience of a

lawful order, and assault. Your sentence included confinement, forfeitures of pay, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 12 September 1991, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, diagnosis of being alcohol dependent, and contention that your punishment was too severe for the offenses. Nevertheless, the Board concluded that these factors and contention were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that resulted in a court-martial conviction. 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