



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

SMS
Docket No: 2222-08
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 13 October 1988, you enlisted in the Navy at age 20 and served without incident until 23 March 1990, when you had nonjudicial punishment (NJP) for two instances of unauthorized absence (UA) totaling about eight days, wrongful appropriation of \$50.00, and two instances of making false official statements. On 5 April 1990, you were diagnosed as being alcohol dependent and recommended to receive treatment. On 27 July 1990, you had NJP for a 24 day period of UA. On 17 August 1990, 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 17 August 1990, you had NJP for three instances of failure to go to your appointed place of duty. On 19 September 1990, you were convicted by a summary court-martial for a 17 day period of UA.

On 2 November 1990, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct 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 5 November 1990, you were charged by civilian authorities with possession of a stolen vehicle.

On 7 December 1990, your commanding officer further stated that you were pending charges in civilian court and although you had been scheduled to attend substance abuse treatment several times, you never attended due to your repeated UA's. On 2 January 1991, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 4 February 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 and desire for a better discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued even 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. 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