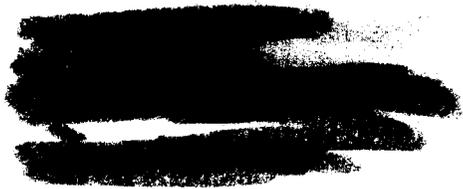




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMS
Docket No: 2235-08
30 October 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 29 October 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 8 March 1989, you enlisted in the Navy Reserve at age 18. On 19 November 1990, you had nonjudicial punishment (NJP) for two instances of unauthorized absence (UA) totaling about 20 days. 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 7 November 1991, you had NJP for a day of UA. On 8 November 1991, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or an OTH discharge. On 15 November 1991, you had NJP for an unspecified period of UA and breaking restriction.

On 22 November 1991, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct. 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 16 December 1991, the separation authority approved the discharge recommendation, but directed an OTH discharge by reason of misconduct due to commission of a serious offense. On 25 December 1991, you

began a period of UA. On 6 January 1992, while in absentia, you were discharged with an OTH discharge by reason of misconduct due to commission of a serious offense.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, awards, 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