



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

SJN  
Docket No: 03716-08  
2 April 2009

[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 31 March 2009. 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.

You enlisted in the Navy and began a period of active duty on 26 February 1979 at age 18. On 19 December 1979, you received nonjudicial punishment (NJP) for periods of unauthorized absence (UA) totaling five days, larceny, and assault. You received a forfeiture of pay, a reduction in paygrade, and a period of correctional custody. On 9 April 1980, you were convicted by civil authorities of two counts of fraud. You were sentenced to nine months in jail.

On 14 April 1980, you were processed for an administrative discharge by reason of misconduct due to civil conviction. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 20 August 1980, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct due to the civil conviction. On 11 September 1980 the discharge authority directed an other than honorable discharge by reason of misconduct due to the civil conviction. On 14 September 1980 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service and belief that your character of service would automatically be upgraded after six months. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your NJP, conviction by civil authorities for very serious offenses, and subsequent incarceration. Further, you are advised that there is no provision in the law or Navy regulations that allow for recharacterization automatically after six months or due solely to the passage of time. 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