



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

SMS
Docket No: 6162-08
19 March 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 18 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 19 April 1977, you enlisted in the Navy at age 18. During the period 13 September 1977 to 15 March 1978, you had nonjudicial punishment (NJP) on three occasions. Your offenses included three instances of unauthorized absence (UA) that totaled about ten days and three instances of absence from your appointed place of duty. During the period 4 April to 10 August 1978, you were in a UA status, a period of about 128 days. On 11 August 1978, 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. During the period 23 April to 31 May 1979, you had NJP on two occasions and were convicted by a special court-martial. Your offenses included a 128 day period of UA, six instances of absence from your appointed place of duty, two instances of violation of uniform regulations, three instances of disobedience of a lawful order, and possession of marijuana.

On 4 June 1979, your commanding officer initiated administrative separation by reason of misconduct due to frequent discreditable involvement. 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 6 August 1979, a drug disposition message stated that you were not dependent on drugs and you were not granted a drug exemption. On 15 August 1979, the separation authority approved the recommendation and directed an OTH discharge by reason of misconduct due to frequent discreditable involvement. On 27 September 1979, you had NJP for two instances for absence from your appointed place of duty, failure to obey a lawful order, and two instances of UA totaling about six days. On 10 October 1979, you were separated with an OTH discharge by reason of misconduct due to frequent discreditable involvement.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, desire for a better discharge, and regret for your actions. The Board also considered the letters of recommendation that you submitted with your application and your post service achievements. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your service due to the seriousness of your repetitive misconduct. 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