



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

BAN
Docket No: 07682-08
8 May 2009



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 6 May 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 on 18 August 1987, and served without disciplinary incident until 26 June 1988, when you received nonjudicial punishment (NJP) of three specifications of unauthorized absence (UA), totaling six days, attempting to alter a military identification card, and failure to obey a lawful order. Further, on 18 November 1988, you were convicted at a special court-martial (SPCM) of three specifications of (UA), totaling in excess of 30 days, missing ship's movement, disrespect to a chief petty officer, and breaking restriction. As part of your sentence, you received a bad conduct discharge (BCD).

After appellate review was completed, on 13 February 1990, you were separated from naval service with a BCD and an RE-4 reenlistment code due to your conviction at a SPCM.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and your claim that relevant information was not presented by your attorney during your SPCM. However, you had the right to appeal your case to higher authority and present any additional information that was not previously presented by your counsel. Therefore, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. 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