



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

TJR  
Docket No: 8848-08  
20 July 2009

[REDACTED]

[REDACTED]

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 14 July 2009. The names and votes of the members of the panel will be furnished upon request. 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 14 November 1974 at age 17 and served for nearly a year without disciplinary incident, but on 17 September and again on 21 October 1975, you received nonjudicial punishment (NJP) for absence from your appointed place of duty and five periods of failure to go to your appointed place of duty. Seven months later, on 15 June 1976, you received your third NJP for wrongful possession of marijuana and drinking alcoholic beverages in public.

During the period from 6 December 1976 to 14 February 1978 you were in an unauthorized absence (UA) status on four occasions. During this period you were also declared a deserter and apprehended by civil authorities on two occasions. As a result of the foregoing, on 9 June 1978, you were convicted by special court-martial (SPCM) of four periods of UA totalling 369 days.

You were sentenced to hard labor for 75 days and restriction for two months.

On 18 July 1978 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). However, on 19 July 1978, you waived your ADB in lieu of a recommendation for a general discharge. Subsequently, your commanding officer recommended you be issued a general discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. However, the discharge authority directed your commanding officer to issue you a general discharge, the type warranted by your service record, and on 21 July 1978, you were so discharged.

Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.5, and an average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and your desire to upgrade your discharge. It also considered your assertion that your request for a hardship discharge had been granted. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive and lengthy periods of UA which resulted in three NJPs and a court-martial conviction. Further, there is no evidence in the record, and you submitted none, to support your assertion. Finally, Sailors who are discharged after committing multiple offenses normally receive discharges under other than honorable conditions, and the Board concluded that you were very fortunate to receive a general discharge. Accordingly, your application has been denied.

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