



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

REC
Docket No: 00636-09
7 December 2009

[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 3 December 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.

On 20 October 1980, you reenlisted in the Navy after four years of honorable service. On 2 February 1981 you received nonjudicial punishment (NJP) for a period of unauthorized absence (UA) of seven days. You were awarded a forfeiture of \$150, a reduction in pay grade and 30 days restriction. Additionally, you were given a counseling warning concerning your misconduct, and warned that further deficiencies could result in separation. On 15 August 1985, you received an additional NJP for being UA for 64 days and missing the movement of your ship. Based on these incidents, administrative discharge action was initiated to separate you by reason of misconduct and commission of a serious offense. You elected to consult counsel and have your case heard before an administrative discharge board (ADB).

On 30 August 1985, the ADB unanimously recommended separation with an other than honorable discharge by reason of misconduct. On 17 October 1985, the discharge authority directed an other than honorable discharge by reason of misconduct due to the commission of a serious offense. On 18 October 1985, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable discharge, and overall record of your last period of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge based on your two NJP's. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans' benefits that accrued during your first period of service. Whether or not you are eligible for benefits based on this period of service is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA. I have enclosed a copy of your DD 214 that covers your first period of service.

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

Enclosure