



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

REC  
Docket No: 2574-09  
23 February 2010

[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 18 February 2010. 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 and began a period of active duty on 29 August 1985, at age 19 with a possession of marijuana civil conviction waiver. On 10 April 1986 you received nonjudicial punishment (NJP) for fighting. On 18 September 1986 you received NJP for being in an unauthorized absence (UA) status, failure to obey a lawful order, assault, communicating a threat, and obtaining services under false pretenses. On 19 December 1986 you received NJP for reckless driving, causing damage to military property, and obtaining services under false pretenses.

On 3 November 1987 you were referred for a mental health evaluation based on a recommendation from your chain of command which observed you to have temper outbursts and an inability to get along with others. You were diagnosed as having alcohol abuse problems and a borderline personality disorder. On 15 October 1987 you received NJP for failure to obey a lawful order and being incapacitated for the performance of your duties.

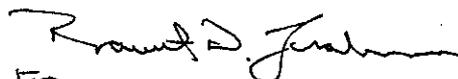
On 11 February 1988 you were convicted by special court-martial (SPCM) of being UA over 60 days, disrespect, and wrongful use of cocaine. You were sentenced to a \$800 forfeiture of pay, confinement for 60 days, and a bad conduct discharge (BCD). However, due to an administrative error, the BCD and a portion of the confinement were suspended. While in the foregoing UA status, you were diagnosed with a Bipolar Disorder. In March 1988 a second Navy Mental Health evaluation was conducted and you were diagnosed with attention deficit disorder, hyperactivity syndrome, tinea pedis, and alcohol dependence, and directed to complete your confinement. Subsequently, on 12 November 1988, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct and drug abuse. You elected to have your case heard by an administrative discharge board (ADB), which voted three to zero in favor of an other than honorable discharge. Your commanding officer agreed with the findings of the ADB and forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 21 March 1989 the discharge authority directed an other than honorable discharge by reason of misconduct due to drug abuse, and on 29 March 1989, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and desire to upgrade your discharge and change your narrative reason for separation and reenlistment code. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the reenlistment code, reason for separation, or characterization of your discharge, given your record of four NJPs and conviction by SPCM. Further, an RE-4 reenlistment code is required when a Sailor is discharged due to misconduct. Finally, the Board concluded that you were very fortunate to receive an other than honorable discharge since a BCD is often directed when a Sailor is found to have committed misconduct such as drug abuse. 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,



For W. DEAN PFEIFFER  
Executive Director