



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

TAL
Docket No: 2982-09-
19 January 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 5 January 2010. 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 June 1978 at age 19. On 13 August 1978, you received nonjudicial punishment (NJP) for two instances of unauthorized absence (UA) from your appointed place of duty. On 10 September 1979, you received NJP for UA from your appointed place of duty and missing ship's movement. On 20 September 1979, you received NJP for UA from your appointed place of duty and disobeying a lawful order. On 30 October 1979, you received NJP for violation of a general regulation by possessing marijuana. On 21 March 1980, you received NJP for UA from your appointed place of duty and disrespect toward a superior commissioned officer. On 26 March 1980, you were notified that administrative separation action was initiated by reason of misconduct due to frequent involvement with military authorities. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 26 March 1980, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions. On 21 April 1980 the separation authority directed that you be separated for misconduct with a general discharge.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. The Board also believed that you were fortunate to receive a general discharge since a separation under OTH conditions is often directed when a Sailor is separated for misconduct. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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