



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

TAL
Docket No: 3921-09
16 April 2010

[REDACTED]

[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 14 April 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 reenlisted in the Navy on 8 December 1989. On 6 September 1990, you were convicted in the municipal court of the city of St Marys, Georgia, of driving under the influence (DUI) and driving with a suspended license. You were sentenced to 90 days confinement or \$1010.00 fine and loss of your driver's license for one year. On 28 September 1990, administrative discharge action was initiated to separate you by reason of civil conviction. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 22 February 1971, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions due to civil conviction. On 12 October 1990, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit for a period of 24 days and missing ship's movement. On 6 November 1990, the separation authority directed an OTH discharge by reason of civil conviction. On 16 November 1990, you were so discharged.

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 that resulted in a civil conviction. Finally, members of the armed services who are convicted by civil authorities may be discharged. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board noted that you may be eligible for benefits with the Department of Veterans Affairs (DVA) based on your prior honorable service. Please contact your local DVA for a determination regarding benefits.

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