



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

SJN
Docket No: 04096-09
11 March 2010

[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 9 March 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 30 October 1978 at age 18. During the period from 2 May 1979 to 12 August 1980, you received three nonjudicial punishments (NJP's) for leaving your appointed place of duty, four instances of absence from your appointed place of duty, 27 days of unauthorized absence, disrespect, resisting arrest, and destruction of government property. On 21 August 1980, administrative discharge action was initiated by reason of misconduct due to pattern of misconduct and alcohol rehabilitation failure. On 29 August 1980, your commanding officer forwarded your case recommending a general discharge. However, on 11 November 1980, you were convicted by special court-martial (SPCM) of disobedience, two specifications of disrespectful language, four specifications of resisting arrest and escape from custody, two specifications of drunk and disorderly conduct, and indecent exposure. You were sentenced to confinement at hard labor, forfeiture of pay, and a bad conduct discharge (BCD). You received the BCD after appellate review was completed.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of three NJP's and conviction by SPCM for very serious offenses. 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