



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

TAL
Docket No: 5054-09
22 March 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 17 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.

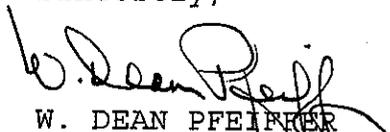
You enlisted in the Navy and began a period of active duty on 16 April 1973 at age 17. Based on the information currently contained in your record it appears you completed four weeks in the 32nd Street Naval Station, Counseling and Assistance Center (CAAC) program prior to being transferred to the Naval Drug Rehabilitation Center (NDRC), Miramar, California, on 6 January 1975. At the completion of your NDRC admission you were diagnosed as being psychologically capable of completing your military obligation. It was recommended that you be retained on active duty. On 5 March 1975, you received nonjudicial punishment (NJP) for two instances of failure to obey a lawful regulation (possession of marijuana). On 3 December 1975, you received NJP again for failure to obey a regulation (possession of marijuana). On 27 August 1976, you received NJP for two instances of unauthorized absence (UA) from your unit. On 29 September 1976, you were notified that administrative separation action was initiated by reason of misconduct due to frequent involvement of a discreditable nature with civil/military authorities. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge

board (ADB). On 1 October 1976, the suspended reduction in rate awarded at NJP on 27 August 1976 was vacated due to your continued misconduct. On 1 October 1976, you received NJP for UA from your unit for a period of 12 days. On 1 November 1976, you were admitted to the Naval Regional Medical Center, Long Beach, California, with a diagnosis of chronic alcoholism. You completed two weeks of education and rehabilitation which included attending Alcohol Anonymous (AA) meetings and a medically supervised antabuse and multiple vitamin regimen. On 9 December 1976, your commanding officer forwarded his recommendation that you be discharged for misconduct under other than honorable (OTH) conditions. On 28 December 1976 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 that resulted in four NJP's. 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