



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

TAL  
Docket No: 5281-09  
31 January 2011

[REDACTED]

[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 26 January 2011. 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 4 March 1980 at age 17. You received nonjudicial punishment (NJP) on eight occasions for two instances of unauthorized absence (UA) from your unit, two instances of failure to obey a lawful order, conduct prejudicial to good order and discipline, failure to go to your appointed place of duty, wrongfully appearing in an unclean uniform, wrongful possession and use of marijuana, destruction of government property, two instances of signing a false official document, and disrespect in language and deportment toward a superior noncommissioned officer. You were counseled on several occasions regarding your misconduct and warned that further offenses could result in administrative separation. On 13 July 1983, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (frequent involvement). After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). The ADB found that you committed misconduct and recommended that you be separated with an OTH discharge. On 12 August 1983, you again received NJP

for damage to government property. On 28 August 1983, the separation authority agreed with the recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct due to frequent involvement, and on 1 September 1983, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in nine NJPs. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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