



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

TAL
Docket No: 12238-09
20 August 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 18 August 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 Marine Corps and began a period of active duty on 10 May 1988 at age 22. On 11 June 1990 you completed Level III Alcohol Rehabilitation treatment. You were put on an aftercare program that consisted of Antabuse therapy for one year, Alcoholics Anonymous meetings three times a week and participation in an aftercare support group for six months. On 29 March 1991, your command was notified that you were in hands of civil authorities in Yuma, Arizona, for domestic assault. On 2 July 1991, your commanding officer suspended your base driving privileges after you were apprehended and arrested at Winterhaven, California, for driving while intoxicated (DWI). On 5 August 1991, you were convicted in the Imperial County Municipal Court in Calexico, California, of DWI with a .22 percent blood alcohol content (BAC). You were sentenced to three years probation and fined \$995.00. On 15 August 1991, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and willfully disobeying a lawful order of a superior officer. On 15 August 1991, you were notified of pending administrative discharge processing with a general discharge due to a pattern of misconduct (alcohol rehabilitation

failure). You waived your procedural rights, including your right to an administrative discharge board (ADB). On 16 August 1991, you again received NJP for being incapacitated for the performance of your duties. On 17 September 1991, you received the general discharge for a pattern of misconduct and alcohol rehabilitation failure.

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 your two NJPs, civil conviction and failure to complete your command's alcohol rehabilitation program. Finally, the Board noted that you waived your right to an ADB, your best opportunity 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