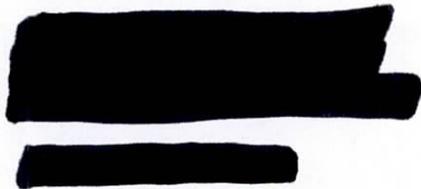




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 00135-10
12 October 2010



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 5 October 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 2 April 1982. The Board found that you were convicted by summary court-martial (SCM) of three specifications of larceny, housebreaking, obstruction of justice, and property damage. On 29 September 1983, you were medically evaluated and diagnosed with a personality disorder. Subsequently, administrative discharge action was initiated by reason of convenience of the government as evidenced by the diagnosed personality disorder. However, when your case was forwarded to the separation authority (SA), reprocessing was directed due to a personality disorder and misconduct due to commission of a serious offense. You elected to consult counsel and have your case heard before an administrative discharge board (ADB). On 24 February 1984, the ADB unanimously recommended that you be separated with an other than honorable (OTH) discharge by reason of misconduct. Your commanding officer concurred with the ADB's findings and recommendation, and forwarded his recommendation that you be discharged for misconduct. On 11 September 1984, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service and contention that you were recommended for a convenience of the government discharge due to a personality disorder, but received an OTH discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your SCM conviction for very serious offenses. With regard to your contention, the Board noted that the administrative separation process includes the requirement that commands process service members for all reasons for which minimum criteria are met. This enabled the SA to approve discharge for the most appropriate reason. The SA may approve the most appropriate reason for separation, direct reprocessing when a command fails to process members for all reasons, as in your case. In this regard, although you were notified that you your being administratively separated due to a personality disorder, the SA directed that you be reprocessed due to a personality disorder and misconduct due to commission of a serious offense. Finally, separation for misconduct normally takes precedence over all other reasons for discharge. 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