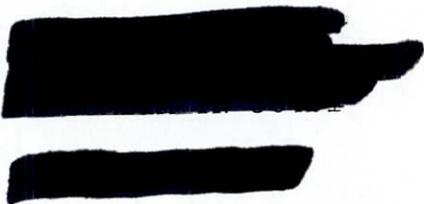




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 00150-10
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.

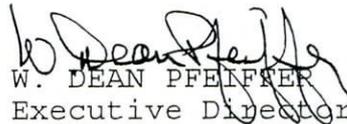
You enlisted in the Navy and began a period of active duty on 28 August 1989. The Board found that you received four nonjudicial punishments (NJP's) for seven instances of disobedience, three periods of unauthorized absence, failure to go to your appointed place of duty, and wrongfully appearing for inspection in an unclean uniform. Subsequently, administrative discharge action was initiated by reason of misconduct due to a commission of a serious offense. After being informed of your procedural rights, you elected only to submit a statement and did not object to the separation with the belief that you would receive a general discharge for refusing alcohol rehabilitation treatment. However, you were transferred and received an other than honorable (OTH) discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 30 July 1991.

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 should have received a general discharge due to your refusal of alcohol rehabilitation

treatment, not an OTH discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your four NJP's for 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 enables the separation authority (SA) to approve separation for the most appropriate reason. The SA may direct reprocessing when a command fails to process a member for all reasons, as in your case. In this regard, although you were notified that you were being administratively separated due to refusal of alcohol rehabilitation treatment, you were reprocessed by the SA for all reasons, including misconduct due to a pattern of misconduct, alcohol rehabilitation treatment failure, and misconduct due to commission of a serious offense. Finally, separation for misconduct normally takes precedence over all other reasons for separation. 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