



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

SJN
Docket No: 00944-10
28 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 26 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 12 June 1984. The Board found that you received three nonjudicial punishments (NJP's) for disobedience, urinating in public, attempts to commit crimes (the offenses are not in your record), four instances of unauthorized absence, wrongful possession of a concealed weapon, and wrongful use of marijuana. Additionally, you were counseled and warned after your first NJP, that further misconduct could result in administrative discharge action. Subsequently, after testing positive for marijuana use on more than one occasion, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). The separation authority directed discharge under other than honorable conditions by reason of misconduct. You were so discharged on 25 February 1985.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and belief that your characterization of service would be upgraded to a general discharge after six months. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your three NJP's, two of which were after you were warned of consequences of further misconduct. The Board also noted that you waived an ADB, your best chance for retention or a better characterization of service. Finally, you are advised that there is no provision of law or in Navy regulations that allows for recharacterization of service automatically after six months or 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