



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

REC
Docket No: 01079-10
20 October 2010

[REDACTED]

[REDACTED]

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 20 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 on 31 August 1978. Between 5 February and 3 December 1979, you received five nonjudicial punishments (NJP's). You committed the following offenses: being in an unauthorized absence (UA) status on four occasions, two incidents of disobeying a lawful order, and communicating a threat. On 5 June 1980, you were convicted by special court-martial (SPCM), of stealing from another Sailor, and unlawfully striking two Sailors in the face with your fists and feet. You were sentenced to a forfeiture of \$750, confinement at hard labor for three months and a bad conduct discharge (BCD). The separation authority directed the execution of your BCD. However, your misconduct continued and on 16 March 1981, you received your sixth NJP for having possession of marijuana. On 22 January 1982, after appellate review, you received the BCD.

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 record of six NJP's and conviction

by SPCM. 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