



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

BAN
Docket No: 01675-10
25 October 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 21 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.

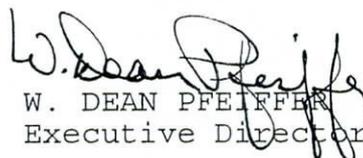
You entered active duty in the Navy on 28 June 1974, and served without disciplinary incident until 21 August 1975, when you received nonjudicial punishment (NJP) for larceny. Shortly thereafter, you received the following disciplinary actions: on 4 September 1975, you received NJP for failure to go to your appointed place of duty; on 8 September 1975, you received NJP for failure to obey a lawful order; on 27 December 1975, you received NJP for two specifications of unauthorized absence (UA); on 15 March 1976, you received NJP for two specifications of UA; and on 29 March 1976, you received NJP for UA, possession of an illegal substance, failure to obey a lawful order, and resisting arrest. Therefore, you were recommended for separation with an other than honorable discharge due to a pattern of misconduct. You waived your right to counsel and an administrative discharge board (ADB) in order to receive a general characterization of service. The separation authority approved the recommendation

and on 7 July 1976, you were separated with a general discharge and an RE-4 (not recommended for retention) reenlistment code due to a pattern of misconduct.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, character reference letter, and prior honorable service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. The Board also noted that you were fortunate to receive a general discharge, because when individuals are separated for misconduct they normally receive an other than honorable 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