



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

TJR
Docket No: 3064-10
2 February 2011

[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 1 February 2011. The names and votes of the members of the panel will be furnished upon request. 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 20 December 1989 at age 22 and began a period of active duty on 17 January 1990. You served without disciplinary incident until 12 March 1990, when you were convicted by civil authorities of disturbing the peace. You were sentenced to probation for three years, a \$300 fine, and \$30 restitution.

During the period from 16 to 19 July 1991 you were in an unauthorized absence (UA) status for three days. The record does not reflect the disciplinary action taken, if any, for this misconduct. On 25 September and again on 12 December 1991, you received nonjudicial punishment (NJP) for a four day period of UA and two specifications of disrespect.

In January 1992 you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. After waiving your procedural rights, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct. Subsequently, the

discharge authority approved this recommendation and directed your commanding officer to issue you a discharge under other than honorable conditions by reason of misconduct, and on 4 February 1992, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertions that you were falsely accused and were the subject of verbal abuse. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in two NJPs and conviction by civil authorities. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an administrative discharge board. Finally, there is no evidence in the record, and you submitted none, to support your assertions. Accordingly, your application has been denied.

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