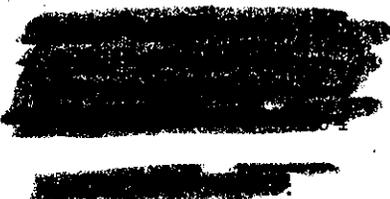




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 4498-09
12 April 2010



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 6 April 2010. 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 31 August 1979 at age 17 and began a period of active duty on 1 October 1979. You served without disciplinary incident until 1 August 1980, when you received nonjudicial punishment (NJP) for three periods of unauthorized absence (UA) totalling 62 days. On 12 September 1980, you received NJP for 16 periods of failure to go to your appointed place of duty and a 20 day period of UA. About three months later, on 11 December 1980, you were convicted by summary court-martial (SCM) of six periods of failure to go to your appointed place of duty, two specifications of unauthorized possession of identification cards, and breaking restriction.

On 4 February and again on 17 April 1981 you received NJP for disrespect, assault, a 35 day period of UA, and wrongful possession of marijuana.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 24 April 1981 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 11 May 1981 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 26 May 1981, 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. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your frequent misconduct which resulted in four NJPs, a court-martial conviction, and included drug abuse. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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