



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

REC
Docket No: 05799-10
10 March 2011



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 9 March 2011. 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 18 March 1983. On 30 June 1983, you received nonjudicial punishment (NJP) for disrespect to a petty officer, and failure to obey a lawful order. On 3 October 1983, you were convicted by a special court-martial (SPCM) of stealing \$62 from a fellow Sailor. You were sentenced to forfeitures of \$750, reduction in pay grade, and confinement at hard labor for 75 days. On 12 October 1983, administrative separation action was initiated by reason of misconduct (commission of a serious offense). You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 31 October 1983, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions (OTH) by reason of misconduct. On 16 November 1983, the discharge authority directed an OTH discharge by reason of misconduct (commission of a serious offense). On 8 December 1983, you were so discharged.

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 one NJP and one conviction by a SPCM of misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a more favorable 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