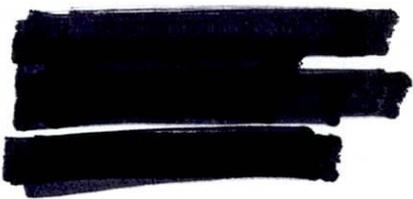




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 6151-10
8 April 2011



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 5 April 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 29 July 1977 at age 17 and began a period of active duty on 7 October 1977. You served without disciplinary incident until 6 July 1978, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and dereliction of duty. On 4 November 1978 you received NJP for absence from your appointed place of duty. Shortly thereafter, on 31 January 1979, you were convicted by summary court-martial (SCM) of two periods of absence from your appointed place of duty and two specifications of breaking restriction, and were sentenced to hard labor for 30 days. On 5 November 1979 you received your third NJP for destruction of government property and reckless driving.

Your record reflects that during the period from 24 February to 6 March 1980 you were apprehended and held in custody after being charged with assault on your wife, destruction of government property, communicating a threat to your wife, and failure to

obey a lawful order as evidenced by your failure to clean up after your pets and allowing unsanitary conditions to exist in government quarters. On 13 March 1980 you received NJP for assault, communicating a threat, and failure to obey a lawful order. The punishment imposed was a restriction and extra duty for 30 days and a reduction in paygrade.

On 21 March 1980 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). However, in an agreement with your commanding officer for a recommendation of a discharge under honorable conditions, you waived your right to an ADB. Subsequently, your commanding officer recommended discharge under honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. On 9 May 1980 the discharge authority approved this recommendation and directed your commanding officer to issue you a general discharge by reason of misconduct, and on 16 May 1980, 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 assertion of having an undiagnosed mental illness, specifically, a bi-polar manic depression mood disorder, which may have been the cause for your repeated disciplinary problems. 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 four NJPs, a SCM, and discredit to the Navy. Finally, Sailors with an extensive record of misconduct, such as yours, normally receive discharges under other than honorable conditions. In this regard, the Board concluded that you were fortunate to have had an agreement with your commanding officer in which you received a general discharge. 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