



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

TJR
Docket No: 6169-10
8 April 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 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 October 1987 at age 18 and immediately began a period of active duty. You served for a year without disciplinary incident, but on 31 October 1988, you received nonjudicial punishment (NJP) for two periods of failure to go to your appointed place of duty. The punishment imposed was restriction for 15 days and an oral reprimand.

On 19 December 1989 you again received NJP for failure to go to your appointed place of duty, and were awarded an oral reprimand. Shortly thereafter, you were the subject of an investigation into black-marketing. During the investigation you admitted culpability, stating, in part, that you had purchased about \$13,500 tax-free merchandise and sold it to Italian Nationals. As a result, on 23 May 1990, you received NJP for wrongful purchase and disposal of tax-free personal property. The punishment imposed was a reduction in paygrade and a \$700 forfeiture of pay.

In May 1990, you observed participating in an homosexual act with another Sailor in the barracks at Naples, Italy. As a result, on 27 June 1990, you were again the subject of an investigation, at which time you admitted that the foregoing act occurred, but you were "forced by another Sailor" into participating in the homosexual act.

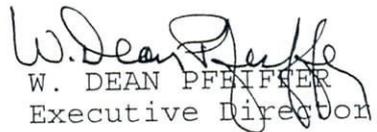
On 16 August 1990 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense as evidenced by your NJPs and black-marketing offenses and homosexuality. After consulting with legal counsel you elected your right to present your case to an administrative discharge board (ADB). On 25 September 1990 an ADB recommended discharge under honorable conditions by reason of misconduct due to commission of a serious offense. Less than a month later, on 15 October 1990, you received your fourth NJP for wrongful appropriation and failure to go to your appointed place of duty. Subsequently, your commanding officer, in concurrence with the ADB, also recommended discharge under honorable conditions by reason of misconduct due to commission of a serious offense. On 19 December 1990 the discharge authority approved these recommendations and directed your commanding officer to issue you a general discharge by reason of misconduct, and on 10 January 1991, 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 that the discharge was too severe for the only isolated offense in your 39 months of service. 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 and included black-marketing offenses of nearly \$14,000 of tax-free merchandise. 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