



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

RDZ:ecb  
Docket No. 07150-10  
8 October 2010

[REDACTED]

[REDACTED]

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 5 October 2010. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 13 November 1996 for a term of four years. On 6 August 1997 you were issued a retention warning that due to your failure to disclose your preservice civil arrest record your enlistment was based on fraud and that you could be involuntarily discharged. However in an effort to allow you to complete your enlistment in an honorable manner you would be retained. Unfortunately you failed to take advantage of this opportunity. Specifically, between October 1997 and February 1999 you received nonjudicial punishment (NJP) on two occasions and one summary court-martial conviction. Your offenses were an unauthorized absence (UA) of two days, failure to go to your appointed place of duty, failure to obey a lawful order, leaving your duty station before

being properly relieved, UA of 20 days terminated by apprehension and UA of 15 days also terminated by apprehension.

Based on your extensive disciplinary record your commanding officer (CO) recommended that you be administratively separated with an other than honorable discharge (OTH). After being informed of your CO's recommendation you waived your right to appear before an administrative discharge board (ADB) where with the assistance of a military lawyer you could have requested retention or a better discharge. While awaiting discharge you received two additional NJP's for two periods of UA totaling 14 days and wrongful use of marijuana. On 26 March 1999 after serving less than two years and three months you received an OTH.

In its review of your application the Board concluded that in view of your frequent acts of misconduct, some of which were serious, as well as your willingness to accept an OTH rather than serve out your enlistment your discharge was both legally proper and fair and does not warrant being upgraded as a matter of clemency.

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