



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

TJR
Docket No: 7403-10
29 July 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 27 July 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 28 May 1999 at age 18 and served about four months without disciplinary incident. However, 11 September 2000, you received nonjudicial punishment (NJP) for assault consummated by a battery.

During the period from 17 July to 6 December 2002 you received NJP on five more occasions for assault, drunk and disorderly conduct, a 27 day period of unauthorized absence (UA), and seven specifications of disobedience. As a result, on 10 December 2002, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After waiving your procedural rights to consulting with legal counsel and present your case to an administrative discharge board (ADB), your commanding officer recommended discharge by reason of misconduct. On 21 April 2003 the

discharge authority approved this recommendation and directed your commanding officer to discharge you under other than honorable conditions by reason of misconduct due to commission of a serious offense, and on 23 April 2003, 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 assertions and statements provided in support of your request. 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 six NJPs and a lengthy period of UA. Further, you were given an opportunity to defend yourself and possibly obtain a better characterization of service, but waived your procedural rights to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertions or statements. 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