



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

TAL  
Docket No: 8392-10  
10 June 2011

[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 8 June 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 and began a period of active duty on 22 April 1992 at the age of 21. You received nonjudicial punishment (NJP) on three occasions for insubordinate conduct toward a superior petty officer, provoking speech, drunk and disorderly conduct, two instances of failure to go to your appointed place of duty and unlawful entry. You were counseled regarding your misconduct and warned that further offenses could result in administrative separation. On 18 October 1994, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB).

On 22 October 1994, you were involved in an altercation and stabbed a Marine in Sasebo, Japan. The Naval Criminal Investigative Service conducted an investigation and found that you were intoxicated and argumentative with the victim. On 24 October 1994, after the stabbing incident, you attempted to commit suicide by hanging yourself. You stated in part that you

were concerned that the stabbing incident would cause your separation from the Navy to be delayed for an extended period of time or cancelled. You were diagnosed with an adjustment disorder with resolved depressed mood, alcohol abuse and occupational problems. You were not diagnosed as suicidal and determined to be psychiatrically fit for full duty.

On 15 November 1994, your commanding officer forwarded his recommendation that you be discharged under OTH conditions by reason of misconduct. On 2 November 1994, you were in an unauthorized absence status (UA) from your unit for a three day period until you surrendered on 5 December 1994. The separation authority directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 12 January 1995 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth. Nevertheless, the Board found that these factors were not sufficient to warrant changing your characterization given the seriousness of your misconduct that resulted in three NJPs, two additional incidents of assault and UA. The Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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