



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

TJR  
Docket No: 9411-10  
2 February 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 1 February 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that on 11 October 2008 you were the subject of a routine traffic stop by civil authorities. As a result, you were apprehended for suspicion of driving while impaired as evidenced by your driving left of the center of the road and the detection of the odor of alcohol on your breath. On 17 October 2008, during an inquiry into the foregoing civil charges and being suspected of drunken or reckless operation of a vehicle, you exercised your right to remain silent. Nonetheless, on 13 November 2008, you were charged with physically controlling a passenger vehicle while the alcohol concentration in your breath was equal to or exceeded the legal limit. On 3 December 2008, you were notified of the intent to conduct a hearing regarding your offense of drunken or reckless driving. At that time you "did not desire to demand trial by court-martial" and accepted punishment under Article 15. Shortly thereafter, on 19 December 2008, you received nonjudicial punishment (NJP) for drunken or reckless driving.

On 15 January 2009, the offenses for which your driver's license was revoked and you were apprehended by civil authorities, specifically, driving while impaired and driving left of the center of the road, were judicially dismissed in civil court. However, this dismissal, in no way, negated your commanding officer's decision to impose the foregoing NJP.

The Board noted that you accepted NJP and did not appeal the findings of guilt. The Board concluded that the NJP was appropriate and that it was administratively and procedurally correct as written and filed. Finally, the Board concluded that there was no evidence in the record to support removal of the NJP. 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