



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

SJN
Docket No: 11331-10
28 July 2011



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 26 July 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.

On 12 May 1987, you reenlisted in the Navy after serving over 10 years of honorable service. The Board found that you served without incident until 26 May 1994, when you received nonjudicial punishment (NJP) for maltreatment of a subordinate. You received a reduction in paygrade, a forfeiture of pay, restriction, and extra duty. Subsequently, administrative discharge action was initiated by reason of misconduct due to commission of a serious offense. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. The discharge authority concurred and directed an OTH discharge by reason of misconduct due to commission of a serious offense. You were so discharged on 29 September 1994.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your prior honorable service, and record of your last period of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your NJP for a very serious offense. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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