



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

TJR
Docket No: 2604-11
14 April 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 12 April 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 28 July 1998 at age 19 and began a period of active duty on 19 October 1998. You served without disciplinary incident until 28 March 2002, when you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty. The punishment imposed was a \$500 forfeiture of pay, restriction and extra duty for 10 days, and reduction to paygrade E-3. The paygrade reduction was suspended for six months, but on 9 May 2002, it was vacated due to your continued misconduct. About six months later, on 17 September 2002, you were convicted by summary court-martial (SCM) of four periods of failure to go to your appointed place of duty and a 48 day period of unauthorized absence (UA). You were sentenced to a \$736 forfeiture of pay, confinement for 30 days, and reduction to paygrade E-1.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. After consulting with legal counsel, you elected to present your case to an administrative discharge board

(ADB). On 16 October 2002 an ADB recommended discharge under honorable conditions by reason of misconduct due to commission of a serious offense. On 21 October 2002, your commanding officer, in concurrence with the ADB, also recommended discharge under honorable conditions by reason of misconduct. Subsequently, the discharge authority approved these recommendations and directed your commanding officer to issue you a general discharge under honorable conditions by reason of misconduct, and on 25 November 2002, 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 assertion of racism. 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 a NJP and a SCM. Further, Sailors who are discharged by reason of misconduct normally receive discharges under other than honorable conditions, and as such, you were fortunate to receive a general discharge. Finally, there is no documented evidence in the record and you submitted none to support your assertion of racism. 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