



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

TAL  
Docket No: 5735-09  
28 April 2010

[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 21 April 2010. 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.

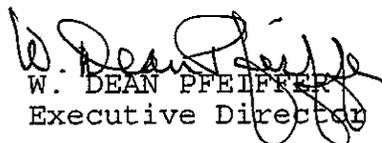
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 5 October 1987 at age 24. From 28 April 1988 through 17 August 1989 you received nonjudicial punishment (NJP) on three occasions for unauthorized absence, insubordinate conduct, failure to obey a lawful order, assault, communicating a threat and indecent language. After your first NJP, you were counseled and warned that further misconduct could result in administrative separation processing. On 7 September 1989, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, or have your case heard by an administrative discharge board (ADB). You did, however elect to submit a written statement. On 21 September 1989, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions. On 26 October 1989, the discharge authority directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 31 October 1989, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. The Board noted you were counseled and warned after your first NJP, that further misconduct could result in administrative discharge action. Additionally, 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