



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

TJR  
Docket No: 2908-07  
11 February 2008

[REDACTED]

[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 5 February 2008. 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 1 September 1987 at age 26. Your record contains a message dated 20 March 1990 which states in part, that an investigation revealed your failure to disclose and/or claim a full pre-service arrest/conviction record, specifically, an arrest for possession of marijuana on 15 November 1985 and an outstanding arrest warranted issued on 11 January 1988. As a result, on 3 April 1990, you were notified of pending administrative separation action by reason of fraudulent enlistment. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 30 April 1990 an ADB recommended discharge under other than honorable conditions by reason of fraudulent enlistment, however, the ADB further recommended suspension of the discharge.

On 2 May and again on 13 June 1990 you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty and three periods of failure to go to your

appointed place of duty. Shortly thereafter, on 26 June 1990, your commanding officer notified the discharge authority of the dismissal of your pre-service disciplinary incidents. On 2 July 1990 the discharge authority directed retention in spite of the fraudulent enlistment and you were warned that any further misconduct could result in an administrative separation.

On 16 January and 7 March 1991 you received NJP for three periods of absence from your appointed place of duty, failure to obey a lawful order, and making a false official statement. On 18 March 1991 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. **After consulting with legal counsel and objecting to the** discharge, you elected to present your case to an ADB. On 29 May 1991 an ADB recommended separation under honorable conditions by reason of misconduct due to a pattern of misconduct. About a month later, on 27 June 1991, you received NJP for five periods of absence from your appointed place of duty and were awarded restriction and extra duty for 30 days. At that time you were also referred for a psychiatric evaluation due to a suicidal gesture of taking an overdose of pills.

Subsequently, your commanding officer also recommended a general discharge by reason of misconduct due to a pattern of misconduct as evidenced by five NJPs, pre-service misconduct, and psychiatric problems. On 8 July 1991 the discharge authority approved these recommendations and directed separation under honorable conditions, and on 17 July 1991 you were so discharged.

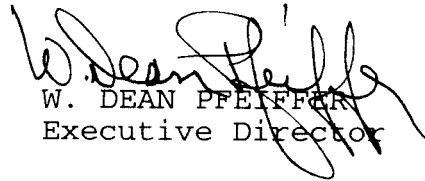
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that your discharge is unjust. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which resulted in five NJPs. Finally, Sailors discharged by reason of misconduct normally receive discharges under other than honorable conditions, so the Board concluded you were fortunate to receive a general discharge. 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