



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

TJR  
Docket No: 8067-07  
3 October 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 1 October 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 26 October 1987 at age 18 and served without disciplinary incident until 29 October 1988, when you received nonjudicial punishment (NJP) for a 28 day period of unauthorized absence (UA) and missing the movement of your ship. On 2 August 1990 you received NJP for absence from your appointed place of duty, dereliction of duty, and making a false official statement. On 20 September 1990 you received your third NJP for disrespect and disobedience.

Your record also reflects that during the period from 9 August 1988 to 20 September 1990 you were counselled on three occasions, but did not receive disciplinary action for deficiencies in your performance and conduct; specifically, alcohol abuse, disrespect, a 72 hour period of UA, tardiness, and failure to obey a lawful order.


Subsequently, you were notified of a pending administrative discharge by reason of misconduct due to a pattern of misconduct and commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 21 September 1990 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. On 27 September 1990 the discharge authority approved this recommendation and directed an other than honorable discharge by reason of misconduct, and on 18 October 1990, 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 request for a corrected Certificate of Discharge or Release from Active Duty (DD Form 214). It also considered your assertion that the characterization of service in your naval record should be changed to reflect the same characterization of service that was given by the Department of Veterans Affairs (DVA). Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in three NJPs and repeated counselling due to deficiencies in your performance and conduct. Further, the DVA only has the authority to recharacterize your service for their purposes. In other words, the DVA does not have any jurisdiction to change your naval record. 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