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

SJN
Docket No: 04916-09
19 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 13 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 31 August 1981 at age 18. During the period from 10 June 1982 to 4 January 1984, you received three nonjudicial punishments (NJP's) for four periods of unauthorized absence (UA) and disobedience. Additionally, you were convicted by two special courts-martial (SPCM's) of 340 days of UA. As a result of your last SPCM, you were sentenced to a bad conduct discharge (BCD). However, the BCD was suspended for a period of six months. On 17 February 1984, 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 commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. The separation authority directed an other than honorable discharge by reason of misconduct due to commission of a serious offense. On 19 April 1984 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and belief that your characterization of service would change after seven years. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your three NJP's and convictions by SPCM for periods of UA totaling over 11 months. Further, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. Finally, you are advised that there is no provision in law or Navy regulations that allow for recharacterization automatically after seven months or 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

W. DEAN PFEIFFER
Executive Director