



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

TJR
Docket No: 13166-09
16 September 2010



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 14 September 2010. 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 5 April 1988 at age 19 and served for about three months without disciplinary incident. However, on 28 July and again on 23 September 1988, you received nonjudicial punishment (NJP) for two periods of failure to go to your appointed place of duty, dereliction of duty, being incapacitated for duty due to overindulgence in alcoholic beverages, two periods of unauthorized absence (UA) totalling three days, absence from your appointed place of duty, and consuming alcoholic beverages in the barracks.

During the period from 24 November 1988 to 18 April 1989 you were in a UA status on two more occasions for 127 days. The second period of UA was terminated when you were apprehended and held in confinement by civil authorities. As a result of this action, you were convicted by civil authorities of receiving stolen property valued at more than \$100. You were sentenced to confinement for four months, probation for 36 months, a \$300 fine, \$75 in court fees, and payment of \$50 to a victim relief

fund. On 10 May 1989 you received your third NJP for two periods of UA totalling 127 days and were awarded restriction and extra duty for 45 days and a \$400 forfeiture of pay.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense and conviction by civil authorities. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 31 July 1989 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense and civil conviction. On 10 August 1989 your commanding officer also recommended discharge under other than honorable conditions by reason of misconduct. On 5 September 1989 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 12 December 1989, 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 change your reenlistment code and upgrade your discharge so that you may enlist in the Army. Nevertheless, the Board concluded these factors were not sufficient to warrant a change of your reenlistment code or recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities. 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