



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

TAL
Docket No: 1385-10
10 November 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 3 November 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 29 August 1989 at age 18. You received nonjudicial punishment (NJP) on four occasions for unauthorized absence (UA) from your unit, failure to go to your appointed place of duty, dereliction in the performance of duty, and failure to obey a lawful order. On 18 September 1990, you were convicted by special court-martial (SPCM) of unauthorized absence (UA) from your unit, four instances of disrespectful language toward a superior noncommissioned officer, four instances of insubordinate conduct by striking a superior noncommissioned officer, failure to obey a lawful order and disorderly conduct. The sentence imposed was confinement for 120 days, forfeiture of pay and a bad conduct discharge (BCD). On 13 August 1992, you received the BCD after appellate review was complete.

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 that resulted in four NJPs and a SPCM. Concerning your alleged mental problems, there is no indication in the record that such

problems, if they existed at the time of your service, were so serious as to excuse you of responsibility for your actions or were sufficiently mitigating to warrant recharacterization. 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