



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

TAL  
Docket No: 6242-10  
15 March 2011

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 9 March 2011. 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.

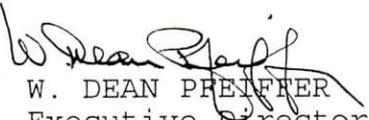
You reenlisted in the Navy on 15 June 1990 after more than three years of honorable service. On 19 February 1991, you were convicted by summary court-martial (SCM) of unauthorized absence (UA) from your unit for a period of three days, missing ship's movement and breach of peace. You received nonjudicial punishment (NJP) on two occasions for failure to obey a lawful order and UA from your unit for a period of five days. After your first NJP, you were counseled regarding your misconduct and warned that further offenses could result in administrative separation. You were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. 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 (OTH) conditions by reason of misconduct. The separation authority directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 24 April 1992 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and prior honorable 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 two NJPs and a SCM. Finally, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans' benefits which accrued during your prior period of honorable service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (DVA). In this regard, you should contact the nearest DVA office concerning your rights, specifically, whether or not you are eligible for benefits based on this period of service.

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