



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

REC
Docket No: 05621-09
23 April 2010

[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 21 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 on 21 March 1980, at age 19. On 9 December 1980, you received nonjudicial punishment (NJP) for being absent from your appointed place of duty. On 29 January 1981, you received a second NJP for being absent from your appointed place of duty. You were counseled and warned that further misconduct could result in administrative discharge action. On 17 July 1981, your commanding officer was informed of your civil arrest by Grants City, New Mexico Police Department for six counts of armed robbery. On 5 February 1982, you were convicted by a civilian criminal court for armed robbery and found guilty. You were sentenced to confinement in Los Lunas, New Mexico for three years, three years in a Cenikor Program and placed on parole for a two year period.

On 11 June 1982, the officer in charge recommended that you receive an other than honorable (OTH) discharge by reason of misconduct. Subsequently, your case was forwarded, and on 28 June 1982, the discharge authority approved the recommendation for an OTH discharge. You were so discharged on 7 July 1982.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in two NJP's, and a civilian criminal conviction and confinement. 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