



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

TJR
Docket No: 7731-07
18 August 2008



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 12 August 2008. 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 11 March 1986 at age 18 and served without disciplinary incident until 1 December 1986, when you received nonjudicial punishment (NJP) for drunk and disorderly conduct and communicating a threat. The punishment imposed was a \$385 forfeiture of pay and extra duty and restriction for 20 days.

On 6 February 1987 you were convicted by summary court-martial (SCM) of a 31 day period of unauthorized absence (UA) and sentenced to confinement for 30 days, a \$492 forfeiture of pay, and a reduction to paygrade E-1.

Subsequently, on 9 April 1987, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and commission of a serious offense. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB).


On 14 April 1987 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. On 22 April 1987 the discharge authority approved this recommendation and directed an other than honorable discharge, and on 28 April 1987 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, the passage of time, and desire to have your discharge upgraded. It also considered your assertion that you wanted to be transferred, but were instead discharged under other than honorable conditions. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which included a lengthy period of UA from the Navy. There is no evidence in the record, and you submitted none to support your assertion. Further, no discharge is automatically upgraded due solely to the passage of time. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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