



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

TJR  
Docket No: 3201-08  
5 February 2009



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 3 February 2009. 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 Naval Reserve on 9 January 1989 at age 28 and began a period of active duty on 5 May 1989. You served without disciplinary infraction until 28 December 1989, when you began a period of unauthorized absence (UA). As a result, on 4 April 1990, you were convicted by special court-martial (SPCM) of missing the movement of your ship and a 49 day period of UA. About three months later, on 13 July 1990, you received nonjudicial punishment (NJP) for a three day period of UA. On 24 October 1990 you were convicted by summary court-martial (SCM) of two periods of UA totalling 15 days, 13 periods of failure to go to your appointed place of duty, and wrongful use of marijuana.

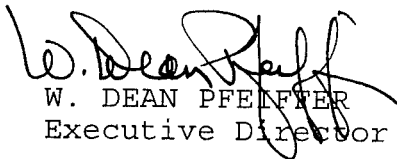
Your record reflects that during the period from 28 November 1990 to 8 January 1991 you were in a UA status on two more occasions for two days. However, the record does not reflect the disciplinary action taken, if any, for this misconduct. Nonetheless, on 19 March 1991, you received another NJP for two periods of absence from your appointed place of duty.

On 20 March 1991 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended an other than honorable discharge by reason of misconduct due to a pattern of misconduct. The discharge authority approved this recommendation, and on 24 June 1991, 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 upgrade your discharge and change your narrative reason for separation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of the narrative reason for separation because of the seriousness of your misconduct which resulted in two NJPs and two court-martial convictions. 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.

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 PFELFFER  
Executive Director