



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

TAL  
Docket No: 3443-09  
28 January 2010

[REDACTED]

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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 13 January 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 reenlisted in the Navy after four years of honorable service. On 19 August 1993, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your appointed place of duty, willfully disobeying a superior commissioned officer, insubordinate conduct toward a superior petty officer and wrongful use of cocaine. On 19 August 1993, you were notified of pending administrative separation action by reason of misconduct. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 6 October 1993, an ADB unanimously found that you had committed misconduct and recommended two to one to discharge you under other than honorable (OTH) conditions. Subsequently, your commanding officer concurred with the ADB and forwarded your case to the discharge authority for review. On 29 October 1993, the separation authority directed an OTH discharge by reason of misconduct. On 17 November 1993 you were so discharged.

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. Finally, concerning your alleged drug problem, there is no indication in the record that such a problem, if it existed at the time of your service, was as serious as to excuse you of responsibility for your actions or was sufficiently mitigating to warrant recharacterization of your discharge. 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