



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

TJR
Docket No: 5706-09
13 August 2009

[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 11 August 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 Navy on 18 May 1988 at age 27. You served without disciplinary infraction until 1 September 1989 when you were absent from your appointed place of duty. On 14 November 1989 you were again absent from your appointed place of duty. During the period from 21 to 24 November 1989 you were in an unauthorized absence (UA) status for three days. The record, however, does not reflect the disciplinary action taken for these periods of absence.

On 17 January 1990 you were convicted by civil authorities of driving while intoxicated. As a result, your recommendation for advancement was withdrawn and you received a special performance evaluation which documented your substandard performance and conduct.

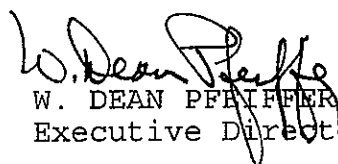
During the period from 6 June to 25 September 1990, after undergoing a physical evaluation for patella tendinitis, Osgood-Schlatter's disease, and hypertrophic fat pad of the left knee, you were found to be unfit for further service. At that time you were also recommended for an administrative separation. As a result, you were processed for an administrative separation by reason of convenience of the government due to a physical disability as evidenced by the patella tendinitis, Osgood-Schlatter's disease, and hypertrophic fat pad of the left knee, which existed prior to enlistment. On 7 November 1990 the discharge authority directed discharge under honorable conditions, and on 23 November 1990 you were issued a general discharge.

Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.4. An average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade the characterization of your general discharge and request for entitlement to benefits under the Montgomery GI Bill (MGIB). Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your general discharge because of your substandard performance and conduct, civil conviction, and since your conduct average was insufficiently high to warrant a fully honorable characterization of service. Finally, the Board noted that you did not meet the criteria necessary to be eligible for MGIB benefits, and that the contributions you paid were nonrefundable. 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 PFEIFFER
Executive Director