



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

TAL
Docket No: 8969-09
13 August 2010



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 4 August 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 and began of period of active duty on 25 October 2005 at age 21. You received nonjudicial punishment (NJP) for insubordinate conduct toward a chief petty officer, and provoking speech and gestures. On 7 October 2008, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct. You elected to consult with legal counsel and have your separation reviewed by the General Court-Martial Authority. On 16 October 2008, your commanding officer approved and directed your separation. You left your temporary assigned duty at the hospital and did not return. As a result you were separated in absentia with an OTH discharge for misconduct due to commission of a serious offense.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board concluded you submitted no evidence to support your

assertion that the NJP was improperly or inappropriately imposed. 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