



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

TJR
Docket No: 3641-10
9 February 2011



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 8 February 2011. 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 8 February 1990 at age 17 and served without disciplinary incident until 30 August 1990, when you received nonjudicial punishment (NJP) for assault. On 26 June and 25 September 1991 you received NJP for two periods of absence from your appointed place of duty. On 10 November 1992 you received your fourth NJP for participating in indecent acts with another Sailor, improper hazarding of a vessel, communicating a threat, and assault. About four months later, on 4 March 1993, you received NJP for assault as evidenced by your choking a fellow shipmate.


Subsequently, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct and commission of 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 6 March 1993 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a

pattern of misconduct and commission of serious offense. On 12 March 1993 the discharge authority approved this recommendation and directed your commanding officer to issue you a general discharge by reason of misconduct. A month later, on 14 April 1993, you received your fifth NJP for underage drinking, drunk and disorderly conduct, and communicating a threat. Nonetheless, on 29 April 1993, you were issued an other than honorable discharge by reason of misconduct.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in six NJPs. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct or the passage of time. 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