



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

TJR
Docket No: 6133-10
8 April 2011

[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 5 April 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 28 February 1991 at age 19 and began a period of active duty on 14 August 1991. You served without disciplinary incident until 2 April 1992, when you received nonjudicial punishment (NJP) for underage drinking and were awarded restriction and extra duty for 14 days and reduction to paygrade E-3. Shortly thereafter, on 1 May 1992, you received NJP for failure to obey a lawful order, absence from your appointed place of duty, and breaking restriction. The punishment imposed was restriction for 45 days, reduction to paygrade E-2, and a \$300 forfeiture of pay.


Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a 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). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense and on 11 August 1992 the discharge authority approved this recommendation

and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct. On 20 August 1992 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, post service conduct, desire to upgrade your discharge so that you may obtain veterans' benefits, and the passage of time. It also considered your concerns as depicted in your supplemental statement. 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 two NJPs. Further, you were given an opportunity to defend yourself but waived the 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 PFEIFFER
Executive Director