



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

TJR
Docket No: 6143-10
8 April 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 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.

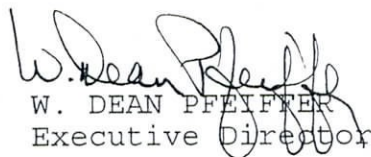
You enlisted in the Navy on 29 April 1989 at age 20 and began a period of active duty on 11 July 1989. You served without disciplinary incident until 4 March 1992, when you received nonjudicial punishment (NJP) for disobedience and six periods of unauthorized absence (UA) totalling 30 days. You were also in a UA status during the period from 27 to 30 March 1992, but no disciplinary action was taken for this misconduct. On 1 June 1992 you were convicted by civil authorities of two counts of possession of and carrying an unlicensed concealed weapon and carrying a loaded firearm in public. You were sentenced to a \$455 fine and probation for six months. From 4 to 6 July 1992 you were again in a UA status for which no disciplinary action was taken. Shortly thereafter, on 3 September 1992, you received your second NJP for 13 specifications of absence from your appointed place of duty and failure to obey a lawful order.

On 21 January 1993 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense and conviction by civil authorities. After consulting with legal counsel you elected your right to present your case to an administrative discharge board (ADB). On 28 January 1993 an ADB recommended discharge under other than honorable conditions by reason of defective enlistment due to fraudulent entry and misconduct due to civil conviction and commission of a serious offense. On 19 February 1993 your commanding officer, in concurrence with the ADB, also recommended discharge under other than honorable conditions by reason of defective enlistment and misconduct. During the period from 2 to 5 March 1993 you were in a UA status for the third time. On 23 March 1993 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 4 May 1993, 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 and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities. 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