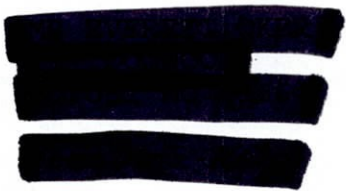




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BAN
Docket No: 06952-10
19 March 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 16 March 2011. 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 2 August 1976, and served without disciplinary incident until 6 July 1977, when you were arrested by civil authorities for three charges of indecent liberties with a minor. You pled guilty and were convicted of a reduced charge of contributing to the delinquency of a minor and sentenced to one year probation. However, you were in an unauthorized absence (UA) status during this period from your parent command. Upon your return to your command, on 11 April 1978, you received nonjudicial punishment for two specifications of UA. Therefore, you were recommended for separation with an other than honorable (OTH) discharge due your civil conviction. You exercised your right to request an administrative discharge board (ADB). The ADB found that you had committed misconduct and recommended separation with an OTH discharge. The separation authority approved the recommendation and on 14 April 1978, you were

separated with an OTH discharge and an RE-4 reenlistment code due to a civil conviction.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your claim that you were wrongfully tried twice for the same incident. Your administrative separation is not punitive in nature and is not considered a punishment. Therefore, you were not tried for the same incident twice. The Board concluded that the facts of your case did not warrant a recharacterization of your discharge due to the seriousness of your misconduct. 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 PFENFNER
Executive Director