



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD
ARLINGTON, VA 22204

SJN

Docket No: 03090-11
10 January 2012



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 5 January 2012. 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 active duty on 1 August 1980. On 28 June 1982, you were convicted by special court-martial (SPCM) of two specifications of unauthorized absence (UA) totaling 245 days. On 10 November 1982 and 7 November 1983, you received nonjudicial punishment (NJP) for 21 days of UA, two instances of disobedience, two instances of misbehavior of a sentinel or lookout, wrongful use of marijuana, and possession of two military identification cards. Subsequently, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 22 November 1983, you received a third NJP for leaving your appointed place of duty. On 12 November 1983, your case was forwarded recommending that you be discharged under other than

honorable (OTH) conditions by reason of misconduct. The discharge authority concurred and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. You were so discharged on 30 December 1983.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and belief that your characterization of service would automatically be ungraded after six months. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your SPCM conviction for a lengthy period of UA, three NJP's, one of which was for drug use, and the fact that you were counseled and warned on several occasion of the consequences of further misconduct. Finally, please understand that there is no provision of law or in Navy regulations that allows for recharacterization automatically after six months. 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