



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

SJN
Docket No: 06860-11
2 November 2011

[REDACTED]

[REDACTED]

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 1 November 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 and began a period of active duty on 17 January 1967. The Board found that you received five nonjudicial punishments (NJP's) for breach of the peace (fighting), two instances of communicating a threat, two instances of disobedience, two instances of failure to go to your appointed place of duty, and disrespect. Additionally, you were counseled and warned after your second NJP, that further misconduct could result in administrative discharge action. Subsequently, you were notified of pending administrative separation action. You waived your rights to consult with counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 4 September 1968, your commanding officer forwarded your case and recommended that you receive an undesirable discharge by reason of unfitness due to your frequently involvement with military authorities. The separation authority concurred and directed that you receive an undesirable discharge due to unfitness. You were so discharged on 10 January 1969.

On 24 June 1977, a panel of the Naval Discharge Review Board (NDRB) convened under the Special Discharge Review Program (SDRP) and upgraded your undesirable discharge to a general discharge under the criteria of SDRP. Department of Veterans Affairs (DVA) benefits are not to be provided to those individuals whose undesirable discharges were upgraded under SDRP.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and issues you are having with the DVA. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in five NJP's. Finally, the Board noted that you received a general discharge under the SDRP. However, neither the DVA nor the Department of Defense considers a general discharge issued by the SDRP to entitle you to any benefits denied by the original discharge. The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted. If you have been denied benefits, you should appeal that denial under procedures established by the DVA. 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