



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 1682-12
5 December 2012



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 28 November 2012. 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 and began a period of active duty on 28 December 1988 at age 19. On 29 January 1990 you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit and disobeying a lawful order. You were counseled regarding your misconduct and warned that further offenses could result in administrative separation. On 23 March 1990, you received NJP for UA from your unit. On 20 July 1990, you received NJP for failure to obey a lawful order and disorderly conduct. On 9 August 1990 you were convicted by summary court-martial (SCM) of UA from your unit for a period of 17 days. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (pattern of misconduct). After consulting with legal counsel, you elected to present your case to an administrative discharge

board (ADB). On 30 August 1990, the ADB found that you committed misconduct and recommended that you be separated with an OTH discharge. The separation authority agreed with the finding and recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct due to a pattern of misconduct and on 7 November 1990, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in three NJPs. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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