



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

CRS
Docket No: 7579-02
24 January 2003

[REDACTED]

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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 22 January 2003. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 14 March 1972. The record reflects that you received three nonjudicial punishments. The offenses included an unauthorized absence of eleven days, use and possession of marijuana, and being an accessory after the fact.

A special court-martial convened on 28 September 1973 and found you guilty of unauthorized absences totalling 55 days and sleeping on watch. The court sentenced you to confinement at hard labor for six months, forfeitures of \$200 per month for six months, reduction in pay grade, and a bad conduct discharge. However, the bad conduct discharge was suspended for one year.

Subsequently, you were an unauthorized absentee from 12 January to 9 May 1974, a period of 117 days. Accordingly, on 8 August 1974 the suspended bad conduct discharge was ordered executed due to this period of absence. On 15 August 1974 you received a fourth nonjudicial punishment for this absence. You received the bad conduct discharge on 20 August 1974.

On 17 May 1976 you were issued a clemency discharge. This action restored civil rights, although not veterans rights or benefits.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the fact that your unauthorized absences totalled more than six months, and given your drug abuse. The Board also noted that the initial sentence to a bad conduct discharge was suspended, thus giving you an opportunity to earn a better discharge. However, you committed another offense, which resulted in the discharge being executed. Based on the foregoing, the Board concluded that no change to the discharge is warranted. 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