



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

SMW  
Docket No: 4860-06  
28 September 2006

[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 27 September 2006. 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.

The Board found you enlisted in the Navy on 20 November 1978 at age 22. On 29 November 1979 you were the subject of a psychiatric evaluation due to increased problems and thoughts of suicide. The evaluation diagnosed you with a personality disorder and directed weekly out-patient treatment. On 31 January 1980 you received a derogatory performance evaluation that stated while working with electronics, you were a hazard to yourself and others, and you had a negative attitude.

On 29 February 1980, you began a period of unauthorized absence (UA) that ended on 30 July 1980, a period of about 152 days. On 3 August 1980, while awaiting orders, you began another UA that ended on 8 April 1982, a period of about 613 days. Although the record is incomplete, it appears that you subsequently requested an other than honorable discharge for the good of the service to avoid trial by court-martial for these two instances of UA that totaled about 765 days. At this time, you would have consulted with counsel and acknowledged the consequences of receiving such a discharge. It also appears that your request was approved because the record shows that on 7 May 1982 you were separated

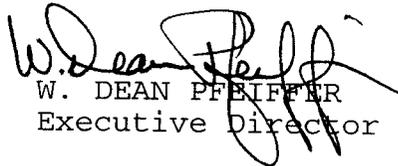
with an other than honorable discharge for the good of the service to escape trial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all mitigating factors, such as your youth and your contention that you were not thinking rationally because of a nervous breakdown, and received no help after asking for it. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct, specifically, more than two years of UA. The Board believed that considerable clemency was extended to you when the request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. Regarding your contentions, there is no evidence in the record to show that you had a nervous breakdown or were ever denied treatment. The record does show that a psychiatric evaluation diagnosed you with a personality disorder and prescribed appropriate treatment, but you began a period of UA several months later. The Board concluded that a personality disorder does not excuse 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 PFEIFFER  
Executive Director