



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

TJR
Docket No: 2942-07
11 February 2008

Dear [REDACTED]

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 5 February 2008. 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 on 25 July 1981 at age 17. About two months later, in September 1981, you received some form of disciplinary action for two periods of unauthorized absence (UA) totalling 10 days, failing inspection, failure to return an identification card, and two specifications of failure to obey a lawful order.

During the period from 30 September 1981 to 13 January 1982 you were in a UA status on eight occasions for 68 days and broke restriction on 26 occasions. Although the discharge documentation is not in your record, it appears that on 12 February 1982 you requested discharge for the good of the service to avoid trial by court-martial for the foregoing misconduct. Regulations required that before making such a request, a Sailor must be advised by military counsel concerning the consequences of such a request. During the period from 25 February to 11 April 1982 you were again in a UA status for 47 days, however, no disciplinary action was taken for this misconduct. Nonetheless,

since the record shows that you were discharged on 19 May 1982 by reason of good of the service to avoid trial, the Board presumed that the foregoing occurred in your case. Because you requested discharge in lieu of trial, you avoided the possibility of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, educational documents, and certificates of achievement and recognition. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your frequent and repetitive lengthy periods of UA, and your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. The Board further concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. 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