



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

TJR
Docket No: 3412-07
11 February 2008

[REDACTED]

[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 7 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 Naval Reserve for two years on 29 February 1944 at age 17. You served for a year and eight months without disciplinary incident, but on 11 July 1945, you were convicted by general court-martial (GCM) of a 165 day period of unauthorized absence (UA). You were sentenced to confinement for three years, reduction in rate, and a bad conduct discharge (BCD).

During the period from 28 August to 5 November 1945 you received captain's mast (CM) on two occasions and were convicted by summary court-martial (SCM). Your offenses were two specifications of attempted escape and aiding and abetting in an escape attempt.

On 15 October 1946 you were restored to duty on a 12 month probational period. However, about four months later, on 4 January 1947, you began a period of UA that was not terminated until 3 February 1947. During this period of UA you missed the movement of your ship and were declared a deserter. Shortly thereafter, on 19 February 1947, you were convicted by civil authorities of Violation of the Dyer Act/motor vehicle theft and sentenced to confinement for two years.

On 21 May 1947, while in civil custody, the discharge authority directed discharge by reason of desertion for a 137 day period of UA and civil conviction. After the BCD was approved at all levels of review, on 15 March 1948 you were so discharged. You were not recommended for reenlistment at the time.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and the passage of time. It also considered your limited education, combat history, and period of good service. The Board further considered your assertion that your ability to serve was impaired by combat related conditions and possibly post traumatic stress syndrome (PTSD). Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your narrative reason for separation because of the seriousness of your misconduct, which resulted in two captain's masts, conviction by civil court, and two court-martial convictions, and included lengthy periods of UA. Further, no discharge is upgraded due solely to the passage of time or because of an individual's good post service conduct. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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