



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

TJR
Docket No: 3706-07
11 February 2008

[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 Navy on 29 September 1971 at age 19 and served for nearly six months without disciplinary infraction. However, during the period from 31 March to 14 November 1972 you were in an unauthorized absence (UA) status on four occasions. You were also hospitalized during this period for possible situational reaction and shock. After undergoing psychiatric evaluations you were diagnosed with anxiety neurosis and an immature personality disorder.

On 20 November 1972 you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for the foregoing periods of UA totalling 220 days, missing the movement of your ship, and breaking restriction. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a

discharge. About a month later, on 19 December 1972, you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded extra duty for four days. On 12 April 1973 you received NJP for a 91 day period of UA and absence from your appointed place of duty. The punishment imposed was correctional custody for 30 days and a reduction in paygrade.

Subsequently, your request for discharge was granted, and on 11 May 1973 you received an undesirable discharge in lieu of trial by court-martial. As a result, 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 and application, carefully weighed all potentially mitigating factors, such as your youth and your assertion that you are unable to obtain employment or medical assistance because of your discharge. It also considered your assertion of a conflict of interest in regards to your NJPs. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct and lengthy periods of UA, which also resulted in 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 also 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. Finally, there is no evidence in the record, and you submitted none, to support your assertion of a conflict of interest. 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