



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

SMW
Docket No: 5557-07
28 January 2008

[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 23 January 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.

On 29 May 1968, you enlisted in the Navy at age 18. On 11 December 1969, you had nonjudicial punishment (NJP) for a brief period of unauthorized absence (UA) and disobedience of a lawful order. On 12 January 1970, you were apprehended by civilian authorities and held for four hours for illegal consumption of alcohol. On 16 February 1970, you had NJP for another brief period of UA. You were also counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in administrative separation.

On 28 March 1970, you began another UA that ended on 19 June 1975, when you were apprehended by civilian authorities. On 7 July 1975, you requested an undesirable discharge for the good of the service to avoid trial by court-martial for the 1,909 day period of UA. On 24 July 1975, the separation authority denied your request. On 4 August 1975, you were convicted by a special court-martial of the 1,909 day period of UA. The court sentenced you to confinement at hard labor, reduction in rank, forfeitures of pay, and a bad conduct discharge (BCD). On

25 November 1975, clemency was denied. After the BCD was approved at all levels of review, on 16 January 1976, you were so discharged.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth and desire for a better discharge. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your lengthy UA, specifically, more than five years. 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