



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

SMW

Docket No: 5595-07

11 February 2008



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 6 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.

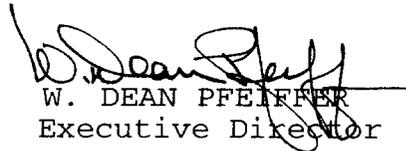
On 28 December 1970, you enlisted in the Navy at age 19 and served without incident until 1 March 1972, when you had nonjudicial punishment for failure to obey a lawful order. During the period 14 September to 19 November 1973, you were in an unauthorized absence (UA) status on two occasions totaling about 64 days. On 1 March 1974, you were convicted by a special court-martial for these two periods of UA. During the period 25 March to 16 May 1974, you were UA on three occasions totaling about 32 days. On 25 June 1974, you requested an undesirable discharge (UD) for the good of the service to avoid trial by court-martial for charges of UA totaling 32 days. On 15 July 1974, the separation authority approved your request for a UD for the good of the service to avoid trial by court-martial. On 18 July 1974, 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. The Board also considered your contention that you were innocent of UA charges during two specific periods. Nevertheless, the Board found the evidence and

materials submitted were not sufficient to warrant changing the characterization of service due to the seriousness of your misconduct. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor or a punitive discharge. Regarding your contention, you provided no evidence or explanation regarding your innocence. Finally, 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. 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