



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

TJR
Docket No: 6327-07
17 April 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 15 April 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 March 1988 at age 19 and served without disciplinary incident until 22 December 1988, when you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA). The punishment imposed was restriction for 45 days.

On 15 February 1988 you began an eight day period of UA that was not terminated until you were apprehended on 23 February 1988 for disorderly conduct. Your record reflects that on 27 February 1988 you feigned mental derangement, intentional injury, disorderly conduct and/or attempting fatal self-harm by ingesting a bottle of pills. Less than a month later, on 19 March 1988, you were incapacitated for duty due to drunkenness and overindulgence in liquor or drugs.

On 28 March 1988 you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for an eight day period of UA, two specifications of disorderly conduct, feigning mental derangement, drunkenness, overindulgence in liquor or drugs, and being incapacitated for duty. Prior to

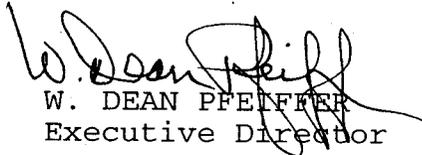
submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. On 29 March 1988 your request for discharge was granted, and on 17 April 1988 you received an other than honorable 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, post service conduct, and the passage of time. It also considered the character reference letters, attendance certificate, and professional evaluation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which resulted in NJP and your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. 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. 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