



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

CRS  
Docket No: 7428-07  
5 May 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 16 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 22 February 1977. You received four nonjudicial punishments during the 2 February 1978-1 March 1979 period, for offenses which included lengthy periods of unauthorized absence, leaving your place of duty without relief, disobedience of lawful orders, failure to go to appointed place of duty, being out of uniform, larceny on two occasions, concealing government property in your locker, and breaking restriction. On 12 June 1978 you were convicted by civil authorities of robbery and sentenced to confinement for ten years. The period of your confinement by civil authorities is not shown in your naval record. On 17 February 1981 a medical evaluation board diagnosed you as having a mixed personality disorder.

On 15 June 1981 you submitted a written request for discharge for the good of the service in lieu of trial by court-martial for an unauthorized absence of 353 days. Prior to submitting this request you conferred with a qualified military lawyer who advised you of your rights and warned of the probable adverse consequences of receiving a discharge under other than honorable conditions. You were examined on 1 July 1981 and found physically qualified for separation. You received a fifth

nonjudicial punishment on 8 October 1981, for four periods of unauthorized absence, breaking restriction and violating a regulation. Your request for discharge for the good of the service was approved by the discharge authority, and you were discharged under other than honorable conditions on 15 October 1981.

The Board carefully weighed all potentially mitigating factors present in your case, such as your mental disorder, which you believe existed while you were on active duty and contributed to your decision to request discharge, lack of adequate legal representation, and your post service conduct and achievements. The Board concluded that notwithstanding those factors, your service was properly characterized as under other than honorable conditions, given your extensive record of misconduct and the serious nature of many of your offenses. The Board believed that considerable clemency was extended to you when your request for discharge was granted, as you avoided the possibility of being confined at hard labor and receiving a punitive discharge. You received the benefit of your bargain and should not be permitted to change it now.

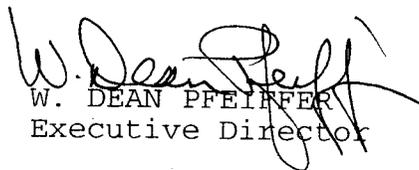
There is no indication in the available records that you lacked mental responsibility for your actions, or were unfit for duty by reason of physical disability that was incurred in or aggravated by your naval service. You would not have been entitled to disability separation or retirement in any case, as your discharge for the good of the service would have taken precedence over disability evaluation processing.

In view of the foregoing, 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

Copy to: The American Legion