



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

TJR  
Docket No: 7623-07  
9 July 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 8 July 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 4 January 1980 at age 19. You served without disciplinary incident until 20 August 1980, when you were convicted by summary court-martial (SCM) of disrespect, failure to obey a lawful order, and communicating a threat. You were sentenced to confinement at hard labor for 31 days and a \$298 forfeiture of pay. On 23 and 31 October 1980 you received nonjudicial punishment (NJP) for absence from your appointed place of duty, missing muster, and disrespect.

On 20 February 1981 you were convicted by special court-martial (SPCM) of a 61 day period of unauthorized absence (UA), failure to obey a lawful order, and breaking restriction. You were sentenced to confinement at hard labor, restriction, and hard labor without confinement for 45 days.

On 19 March 1981 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities.

After consult with legal counsel you waived your right to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended an other than honorable discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. The discharge authority approved this recommendation and directed discharge under other than honorable conditions by reason of misconduct, and on 3 April 1981 you received an other than honorable discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that you were offered a general discharge but were erroneously issued an other than honorable discharge. It also considered your assertion that your discharge should be changed so that you may be entitled to veterans' benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none to support your assertion of being erroneously issued an other than honorable discharge. 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