



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

TJR
Docket No: 7629-07
9 July 2008

[REDACTED]

[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 reenlisted in the Navy on 1 September 1967 after nearly three years of prior honorable service. You continued to serve without disciplinary incident until 23 January 1968, when you were convicted by summary court-martial (SCM) of a 31 day period of unauthorized absence (UA). About two months later, on 22 March 1968, you received nonjudicial punishment (NJP) for a four day period of UA.

On 16 October 1969 you were convicted by a special court-martial (SPCM) of three periods of UA totalling about 193 days. You were sentenced to hard labor and restriction for two months, a \$238 forfeiture of pay, reduction to paygrade E-2, and a bad conduct discharge (BCD). The paygrade reduction, forfeitures, and BCD were suspended for six months. On 4 November 1969 you received NJP for a four day period of UA. Two days later, on 6 November 1969, you were convicted by civil authorities of failure to appear in court and were fined \$35.

On 2 March 1970 the BCD was vacated due to your continuous misconduct. On 2 April 1970 you were again convicted by SCM of two periods of UA totalling 93 days and breaking restriction. You were sentenced to a letter of reprimand and held in confinement for safekeeping.

Subsequently, the BCD was approved at all levels of review, and on 12 June 1970, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and request to upgrade your discharge so that you may receive veterans' benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the frequency and seriousness of your lengthy periods of UA from the Navy during a time of war, and the seriousness of your misconduct in both the military and civilian communities. Accordingly, your application has been denied.

The Board believes that under current regulations you may be eligible for veterans' benefits which accrued during your first period of service. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DVA), and you should contact the nearest office of the DVA concerning your right to apply for benefits.

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 PFIEFFER
Executive Director