



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

TJR
Docket No: 8033-07
3 October 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 1 October 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 23 January 1973 at age 17 and began a period of active duty on 7 May 1973. You served without disciplinary incident until 12 October 1973, when you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA). The punishment imposed was restriction and extra duty for three days and a \$20 forfeiture of pay.

On 15 July 1974 you were convicted by special court-martial (SPCM) of five periods of UA totalling 91 days and sentenced to confinement at hard labor for two months and a \$600 forfeiture of pay. Shortly thereafter, on 22 August 1974, you were notified of pending administrative discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 4 September 1974 your commanding officer recommended discharge under honorable conditions by reason of unfitness. On 13 September 1974 the discharge authority approved this recommendation, and on 25 October 1974 you were so discharged.

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 desire to have your discharge upgraded to honorable. It also considered your assertion that because you were seasick you realized that you had enlisted in the wrong branch of the armed forces. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive and lengthy periods of UA which resulted in NJP and SPCM. Finally, you were given an opportunity to defend yourself, but waived your procedural rights to present your case to an ADB. 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