



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

SMS
Docket No: 1575-08
6 October 2008

[REDACTED]

[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 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.

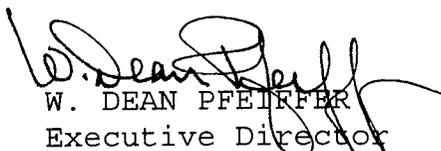
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 11 January 1977, you enlisted in the Navy at age 18. On 27 January 1977, you volunteered for assignment to the SEALs. On 24 February 1977, about three weeks later, you had nonjudicial punishment (NJP) for larceny of a cassette tape from the exchange. On 30 November and 16 December 1977, you had NJP for disobedience of a lawful order and assault. During the period 17 July 1978 to 17 April 1989, you were in an unauthorized absence (UA) status on four occasions totaling about 3883 days. On 27 June 1989, you were convicted by a special court-martial of the 3883 days of total UA. The sentence included confinement, reduction in rank, and a bad conduct discharge (BCD). A portion of your sentence was subsequently suspended and after the BCD was approved at all levels of review, on 19 April 1990, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contention that the Navy broke your enlistment contract. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct, specifically, three NJP's and more than ten years of UA's. Furthermore, there is no evidence in the record to support your contention. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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