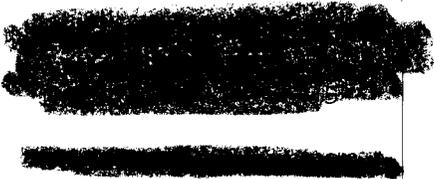




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SJN
Docket No: 02007-08
6 March 2009



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 3 March 2009. 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 24 October 1973 after three years of honorable service. On 3 May and 24 July 1974, you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totaling 22 days. On 17 January 1975, you were convicted by special court-martial (SPCM) of disobedience. On 22 August 1975, you received a third NJP for 36 days of UA and missing movement.

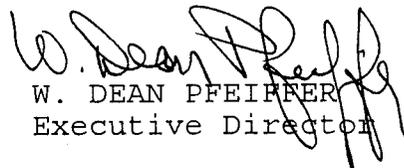
On 26 August 1975, you were notified of pending administrative discharge action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). On 4 September 1975, your commanding officer forwarded your case recommending that you receive an under other than honorable conditions discharge due to unfitness. However, due to the lack of documented counseling required to separate under other than honorable conditions, the discharge authority directed that you receive a discharge warranted by your service record.

Characterization of service is based in part on conduct and proficiency averages computed from marks assigned on a periodic basis. Your conduct average was 2.4. At the time of your service, a conduct average of 3.0 was required for a fully honorable characterization of service. Subsequently, you received a general discharge on 1 October 1975.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge because of the three NJP's and conviction by SPCM. The Board also noted that you waived an ADB, your best chance for retention or a better characterization of service. 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