



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

SMS  
Docket No: 2176-08  
30 October 2008



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 29 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.

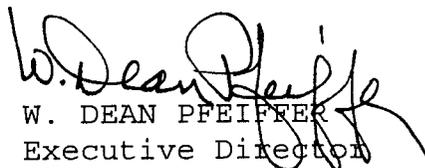
On 30 May 1972, you enlisted in the Navy at age 17 with parental consent. On 15 November 1972, you had nonjudicial punishment for a two day period of unauthorized absence (UA). During the period 16 May to 2 July 1973, you were in a UA status on three occasions totaling about 43 days. On 10 August 1973, you were convicted by a special court-martial of the three UA's that totaled 43 days, two instances of missing movement of your ship, and disobedience of a lawful order. During the period 21 November 1973 to 24 March 1974, you were in a UA status on three occasions totaling about 115 days. You subsequently requested an undesirable discharge (UD) for the good of the service to avoid trial by court-martial for the three periods of UA totaling 115 days. At that time, you consulted with counsel and acknowledged the consequences of receiving such a discharge. On 26 April 1974, the separation authority approved your request for a UD. On 2 May 1974, you were separated with a UD for the good of the service to avoid

trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth and desire for a better discharge. The Board also considered your contention that you contracted hepatitis C while in the Navy. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct, specifically, more than five months of total UA. Further, there is no evidence in the record to support your contention. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. 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