



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

SMS
Docket No: 3424-08
8 January 2009

[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 7 January 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

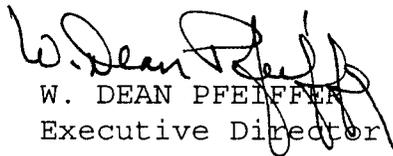
On 15 November 1967, you enlisted in the Navy at age 17 with parental consent. On 18 July 1968 and 23 January 1969, you were convicted by special courts-martial (SPCM). Your offenses included larceny of four wallets and \$39 cash, and 37 days of unauthorized absence (UA). On 4 March 1969, you began a period of UA and on 7 March 1969, you were apprehended by civilian authorities and held pending charges of transporting a stolen motor vehicle across a state line. On 21 April 1969, you were convicted in civil court of this offense and sentenced to three years of probation. On 21 April 1969, you were returned to military authorities after being UA for about 48 days. On 12 May 1969, you were convicted by a SPCM of the 48 day period of UA. Your sentence included confinement at hard labor, forfeitures of pay, and a bad conduct discharge (BCD). After the BCD was approved at all levels of review, on 16 January 1970, you were so discharged.

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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 belief that your discharge would be upgraded after six months. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. 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