



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

TJR  
Docket No: 3537-08  
25 February 2009



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 24 February 2009. The names and votes of the members of the panel will be furnished upon request. 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 7 August 1985 at age 22 and served for a year without disciplinary incident. However, on 29 September 1986, you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded a \$50 forfeiture of pay.

On 13 April 1989 you received NJP for a 28 day period of unauthorized absence (UA). The punishment imposed was a reduction in paygrade and restriction for 45 days. About a month later, on 18 May 1989, you began another period of UA that was not terminated until you were apprehended by civil authorities on 30 August 1989. During this 106 day period of UA you missed the movement of your ship on three occasions and were also declared a deserter. During the period from 16 November 1989 to 14 March 1990 you were again in a UA status on two more occasions for a total of 112 days. As a result, on 22 March 1990, you received your third NJP and were awarded restriction and extra duty for 45 days and a \$1,000 forfeiture of pay.

On 19 October 1990 you were convicted by special court-martial (SPCM) of desertion. You were sentenced to confinement for 70 days, reduction to paygrade E-1, a \$932 forfeiture of pay, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review, and on 7 November 1991 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 and desire to upgrade your discharge. It also considered your assertion that you were given inferior legal advice. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your frequent and lengthy periods of UA from the Navy. Finally, there is no evidence in the record, and you submitted none, to support your assertion of inferior legal representation. Accordingly, your application has been denied.

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