



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

TJR  
Docket No: 5042-08  
5 March 2009

[REDACTED]

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 3 March 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 31 March 1977 at age 17 and began a period of active duty on 4 May 1977. You served for about five months without disciplinary incident, but on 25 August 1977, you received nonjudicial punishment (NJP) for a one day period of unauthorized absence (UA). Two months later, on 6 October 1977, you received NJP for absence from your appointed place of duty and failure to obey a lawful order.

On 16 May 1978 you were convicted by special court-martial (SPCM) of two periods of failure to go to your appointed place of duty, three periods of UA totalling 148 days, two specifications of breaking restriction, missing the movement of your ship, failure to obey a lawful order, two specifications of communicating a threat, wrongful use of barbiturates, and two specifications of assault. You were sentenced to confinement at hard labor for three months, a \$600 forfeiture of pay, and a bad conduct discharge (BCD). The BCD was suspended for six months.

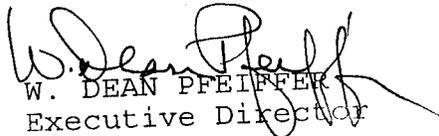
Nonetheless, on 11 October 1978, you received your third NJP for two specifications of failure to obey a lawful order and were awarded restriction and extra duty for 30 days.

Subsequently, on 30 October 1978, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 2 November 1978 an ADB recommended separation under other than honorable conditions by reason of misconduct due to a pattern of misconduct. On 9 November 1978 your commanding officer also recommended separation under other than honorable conditions by reason of misconduct. On 13 December 1978 the discharge authority approved these recommendations and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 15 February 1978, 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. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in three NJPs and a court-martial conviction. Finally, you were given an opportunity for a better characterization of service when the BCD was suspended, but your continued disciplinary infractions subsequently resulted in separation by reason of misconduct. 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