



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

TJR  
Docket No: 5252-08  
8 April 2009

[REDACTED]

[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 7 April 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 22 June 1977 at age 17 and served for nearly six months without disciplinary incident. However, during the period from 10 January to 1 June 1978, you received nonjudicial punishment (NJP) on three occasions for six periods of absence from your appointed place of duty and a one day period of unauthorized absence (UA).

During the period from 15 January to 21 November 1979 you received three more NJPs for a one day period of UA, three periods of absence from your appointed place of duty, and disobedience. You were also convicted by civil authorities of disorderly conduct, and possession of alcoholic beverages, and convicted by summary court-martial of four periods of UA totalling 34 days, disobedience, and resisting arrest.

You received six more NJPs during the period from 26 June to 19 December 1980 for five periods of absence from your appointed place of duty, a four day period of UA, three specifications of disobedience, failure to obey a lawful order, disorderly conduct, dereliction of duty, and disrespect.

On 9 January 1981 you received NJP for two periods of absence from your appointed place of duty and disobedience. About 10 days later, on 19 January 1981, you were convicted by special court-martial (SPCM) of a 12 day period of UA and missing the movement of your ship. You were sentenced to a \$600 forfeiture of pay, restriction and hard labor for 60 days, and a bad conduct discharge (BCD). Six months later, on 29 June 1981, you received NJP for disobedience.

On 9 August 1982 you began another period of UA that was not terminated until 25 August 1982. However, the record does not reflect the disciplinary action taken, if any, for this misconduct. Subsequently, the BCD was approved at all levels of review, and on 16 September 1982 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 contributed significantly to the Navy by providing honorable service as a signalman. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your repetitive misconduct in both the military and civilian communities, which resulted in 14 NJPs, two court-martial convictions, and conviction by civil authorities. Finally, there is no evidence in the record, and you submitted none, to support your assertion of honorable service as a signalman. 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