



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

SJN  
Docket No: 05622-08  
10 April 2009

[REDACTED]

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

You enlisted in the Navy and began a period of active duty on 2 November 1970 at age 17. On 2 November 1971 and 24 March 1972, you received nonjudicial punishment (NJP) for five instances of absence from your appointed place of duty, two brief periods of unauthorized absence (UA), and four periods of UA totaling three days. During the period from 5 April to 31 October 1972, you had three periods of UA totaling 96 days. Subsequently, on 20 December 1972, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for three periods of UA, wrongful appropriation of a government vehicle, and possession, with intent to deceive, another service member's military identification card. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge.

Your request for discharge was granted and on 4 January 1973, you received an other than honorable discharge for the good of the service in lieu of 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 application, carefully weighed all potentially mitigating factors, such as your youth, overall record, and Vietnam service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in two NJP's, charges being preferred to a court-martial for a periods of UA totaling over three months, and especially your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge 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 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