



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

SMS  
Docket No: 5804-08  
26 February 2009



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 25 February 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.

On 19 October 1977, you enlisted in the Navy at age 18. On 13 June 1978, you had nonjudicial punishment for two instances of unauthorized absence (UA) totaling about three days. During the period 26 August to 6 October 1978, you were in a UA status on four occasions totaling about 13 days. On or about 3 October 1978, you received a medical evaluation and were admitted for a psychiatric evaluation because of a suicidal gesture. There is no record of treatment or psychiatric evaluation in the record. During the period 6 October 1978 to 25 January 1979, you were in a UA status on 10 occasions totaling about 79 days. On 1 February 1979, you were warned that further infractions could result in disciplinary action or an other than honorable (OTH) discharge.

During the period 8 February 1979 to 14 April 1980, you were in a UA status on two occasions totaling about 392 days. Based on the information currently contained in the record, it appears

that you subsequently requested an OTH discharge for the good of the service to avoid trial by court-martial for the two instances of UA totaling 392 days. Apparently, the separation authority approved your request for an OTH discharge. On 21 May 1980, you were separated with an OTH discharge for the good of the service to avoid 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 entire record, carefully considered all potential mitigation, such as your youth. The Board also considered your contentions that your roommates were a bad influence and you were assaulted several times. The Board also considered the statement provided by your friend. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your service due to the seriousness of your repetitive misconduct. Regarding your contentions, there is no evidence in the record to support them. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial 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 you 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