



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

CRS
Docket No: 8976-08
24 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 19 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy Reserve on 15 July 1983 and entered on extended active duty on 12 October 1983. You were absent without authority from 1 April 1986 to 9 June 1986, when you were apprehended. On 29 July 1986, you were separated from the Navy with a discharge under other than honorable conditions. You were separated pursuant to your request for discharge for the good of the service in lieu of trial by court-martial for an offense which is not shown in available records; however, the Board presumes it was the unauthorized absence from 1 April to 9 June 1986.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, overall service, and the contention that you suffered from a severe condition of your lower back, and should have been discharged because of that condition. The Board found those factors insufficient to warrant corrective action in your case.

The Board was not persuaded that your service was improperly characterized as under other than honorable conditions. It

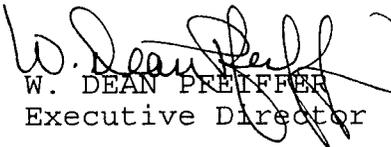
believes that considerable clemency was extended to you when your request for discharge was approved since, by that action, you avoided the possibility of a Federal conviction, confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain when your request for discharge was granted, and you should not be permitted to change it now.

The Board could not find any indication in your record that you were unfit for duty by reason of physical disability on 29 July 1986. It noted that you would not have been entitled to be referred for disability evaluation in any case, because your request for discharge in lieu of trial by court-martial would have taken precedence over disability evaluation processing.

In view of the foregoing, 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

Copy to: Disabled American Veterans