



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

TJR
Docket No: 10363-08
1 October 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 29 September 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 reenlisted in the Navy on 30 September 1966. A year later, on 7 October 1967, you began a 138 day period of unauthorized absence (UA) that was not terminated until 22 February 1968, when you were apprehended by civil authorities. Shortly thereafter, on 26 March 1968, you began another period of UA that was not terminated until 20 August 1969 when you were apprehended by Federal Bureau of Investigation agents. During both of the foregoing periods of UA, you were declared a deserter. Subsequently, on 20 September 1968, you were convicted by special court-martial (SPCM) of two periods of UA totalling 285 days. You were sentenced to confinement at hard labor for three months and a bad conduct discharge (BCD).

On 2 December 1968 you waived restoration to duty and to have your case reviewed for clemency by a parole board. Your statement was, in part, as follows:

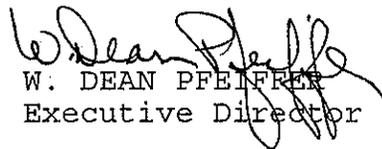
I have too many problems at home and I feel that I can't go back to duty and be a good Sailor. Because of this, I have to have a discharge. Because of my problems, I know that I can no longer obligate myself to the Navy. I know and feel it will be better to me and to the Navy if I were discharged.

During the period from 8 December 1968 to 23 April 1969 you were again in a UA status and also declared a deserter. Nonetheless, 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 14 May 1969 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 assertions of family and personal problems. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your repetitive and lengthy periods of UA. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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