



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

SJN
Docket No: 01298-09
11 December 2009

[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 8 December 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 reenlisted in the Navy on 12 July 1968 after three years of honorable service. On 3 September 1968, you received nonjudicial punishment (NJP) for unauthorized absence (UA). On 5 January and 24 February 1970, you were convicted by special court-martial (SPCM) of two periods of UA totaling 97 days. On 16 June 1970, you were convicted by civil authorities of drunken driving. On 10 August 1970, you received a second NJP for seven days of UA. On 25 November 1970, you were convicted by summary court-martial (SCM) of 21 days of UA.

On 16 December 1970, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). Your case was forwarded and the separation authority directed an undesirable discharge. On 14 February 1971 you began another period of UA that lasted 347 days, ending with your apprehension on 27 January 1972.

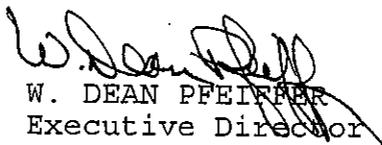
On 30 March 1972, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for your last period of UA, which was denied on 27 April 1972. On 12 May 1972, a medical report stated, in part, that you were a habitual drinker and recommended that you attend an alcohol rehabilitation program. Subsequently, you were convicted by SPCM of the 347 day period of UA on 19 May 1972. You were sentenced to confinement at hard labor and a bad conduct discharge (BCD). However, the convening authority suspended the entire sentence for a period of 12 months. You were released from confinement awaiting a place in an alcoholic rehabilitation center when you began an additional period of UA on 7 June 1972, that lasted 99 days, ending with your apprehension on 22 September 1972. Subsequently, on 8 November 1972, you submitted another written request for a good of the service discharge in order to avoid trial by court-martial for that period of UA. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Your request for discharge was granted and on 19 December 1972, 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 prior honorable service, overall record of your last period of active duty, and the problems you were having with drinking alcohol. 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, a civil conviction, conviction by SCM, two SPCM convictions, charges being preferred to a court-martial for a period of UA totaling over three months, and 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. Finally, the Board felt you were given an opportunity to earn a better characterization of service when your BCD was suspended for a period 12 months. 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