



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

TJR  
Docket No: 2317-09  
19 February 2010

[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 17 February 2010. 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 enlisted in the Navy on 18 June 1978 at age 20 and began a period of active duty on 28 June 1978. You served without disciplinary infraction until 5 March 1979, when you began a period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 3 April 1979. However, the record does not reflect the disciplinary action taken, if any, for this misconduct. On 16 April 1979 you received nonjudicial punishment (NJP) for absence from your appointed place of duty.

In January 1980 you submitted a written request for an administrative discharge for the good of the service in lieu of conviction by court-martial for conspiracy to commit robbery, robbery, receipt of stolen property, and communicating a threat.

Subsequently, this request was denied and the charges were referred for court-martial. As a result, on 8 January 1980, you were convicted by special court-martial (SPCM) of unlawfully receiving stolen money, specifically, \$20 and communicating provoking words/threats. You were sentenced to a \$750 forfeiture of pay and confinement at hard labor for three months. During the period from 29 May to 25 September 1980 you received NJP on three more occasions for damaging government property, wrongful appropriation of a \$28 camera, assault, and two periods of UA totalling three days. On 27 October 1980 you were apprehended by civil authorities on charges of possession of drugs, to include marijuana, and drug paraphernalia.

On 23 June 1981 you were convicted by general court-martial (GCM) of three periods of desertion, two periods of UA totalling 10 days, three specifications of making a false official statement, escape, and 41 specifications of false or unauthorized pass offenses. You were sentenced to confinement at hard labor for 15 months, forfeiture of all pay and allowances, reduction to paygrade E-1, and a dishonorable discharge (DD). On 20 October 1981 you began another period of UA that was not terminated until you were apprehended and held in confinement by civil authorities on 19 January 1982. The record does not reflect the disciplinary action taken, if any, for this period of UA.

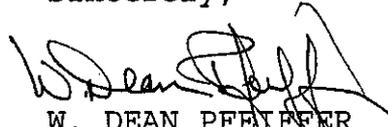
On 8 September 1982 you received your fifth NJP for failure to go to your appointed place of duty. Subsequently, the DD was approved at all levels of review, and on 14 July 1983, you were issued a DD.

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 assertion of completion of a "Recycle Program" which would automatically upgrade your discharge. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in five NJPs, and two court-martial convictions, and included frequent and lengthy periods of UA from the Navy. Finally, there is no evidence in the record, and you submitted none, to support your assertion of a "Recycle Program." 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