



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

SJN
Docket No: 02430-09
19 January 2010

[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 12 January 2010. 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 July 1973 after serving over three years of honorable service. You served for over four more years until 26 June 1978, when you began a period of unauthorized absence (UA) that lasted 357 days, ending on 18 June 1979. On 18 July 1979, you were convicted by summary court-martial (SCM) for that period of UA and sentenced to a forfeiture of pay and a reduction in paygrade. On 16 April 1980, you began another period of UA and were declared a deserter on 16 May 1980. While in a UA status, you were convicted by civil authorities of hit and run, assault in the second degree, driving on a suspended license, and driving under the influence of alcohol. You were sentenced to a fine and four years in jail. On 24 December 1980, you were processed for an administrative discharge by reason of misconduct due to civil conviction. On 22 January 1981, your commanding officer forwarded your case to the discharge authority recommending an other than honorable discharge. On 30 January 1981, the separation authority directed that you be separated in absentia with and other than honorable discharge by reason of misconduct due to the civil conviction. You were so discharged on 12 February 1981.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given you SCM for a lengthy period of UA and especially the civil conviction and ensuing incarceration for very serious offenses. 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