



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

SJN
Docket No: 02544-09
28 January 2010



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 26 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 enlisted in the Navy and began a period of active duty on 17 April 1978 at age 17. On 2 March 1978, you received nonjudicial punishment (NJP) for disrespectful language and communicating a threat. On 4 April 1979, you began a period of unauthorized absence (UA) that lasted 190 days, ending with your apprehension by civil authorities on 11 October 1979. On 6 December 1979, you began another period of UA that lasted five days, ending on 11 December 1979. On 8 January 1980, you were convicted by special court-martial (SPCM) of two periods of UA totaling 195 days, possession of marijuana, and assault and battery. You were sentenced to confinement at hard labor and a bad conduct discharge (BCD). However, the convening authority suspended your BCD for a period of 12 months. On 3 March 1980, you were counseled and warned that further misconduct could result in administrative discharge action. On 22 October 1980, you began yet another period of UA that lasted 70 days, ending on 1 December 1980. You received the BCD after appellate review was completed on 27 February 1981.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, post service conduct, and health issues. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of NJP, conviction by SPCM for periods of UA totaling over six months, and the fact that you were given a opportunity to earn a better characterization of service when the BCD you received was suspended, but failed to do so as evidenced by your continued misconduct by going UA for over two 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