



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

JRE
Docket No. 02880-09
3 August 2009



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 30 July 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

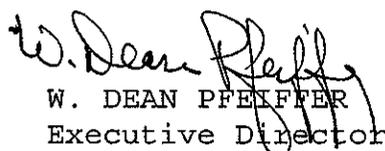
Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board found that you reenlisted in the Navy on 3 August 1965 after a short break in active service. Shortly thereafter you were given a diagnosis of an emotionally unstable personality, and recommended for discharge on that basis; however, before the discharge could be effected, you absented yourself without authority and remained absent for an extended period of time.

You were ultimately separated from the Navy on 22 June 1967 with a bad conduct discharge pursuant to the approved sentence of your second special court-martial. You had record of 540 days lost and two convictions by special court-martial during that enlistment. You were given the opportunity to request restoration to duty, but declined to do so. You stated "I just don't like the service anymore. I want to be a civilian again."

There is no indication in the available records that you were unfit for duty by reason of physical disability on 22 June 1967. You would not have been eligible for disability separation or retirement or separation with severance pay even if you had been unfit because your bad conduct discharge would have taken precedence over disability processing. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to change the basis of your separation to unsuitability, and upgrade your discharge to general or honorable, 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