



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

REC
Docket No: 03027-09
27 January 2010

[REDACTED]

[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 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.

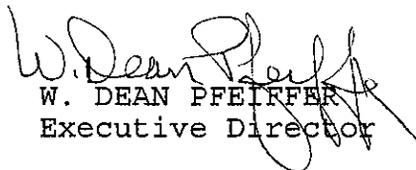
You enlisted in the Navy on 6 April 1964, at the age of 17. On 11 April 1966, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status. On 9 May 1966, you received NJP for unknown charges. On 18 May 1966, you were convicted at a summary court-martial (SCM) for being absent from your appointed place of duty. You were sentenced to a reduction in pay grade to E-2, restriction for 30 days, and extra duty for 14 days. On 15 July 1966, you were convicted at a second SCM for failing to go to your appointed place of duty. You were sentenced to a reduction in pay grade to E-1, and confinement at hard labor for 30 days. You were counseled and warned that further misconduct could result in administrative discharge action. On 24 January 1967, you were convicted at a special court-martial (SPCM) for two occasions of being UA totaling 93 days, wrongfully having possession of another military member's military identification card and having possession of some other service member's liberty card. You were sentenced to forfeiture of \$86, confinement at hard labor for five months and a bad conduct discharge (BCD). On 21 September 1967, you received a third NJP for an additional period of UA totaling 50 days and failure to follow a lawful order. After appellate review, on 4 October 1967, you received the BCD. On 4 November 1975, you

received pardon under Presidential Proclamation 4313.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of three NJP's and conviction by two SCM's and one SPCM for serious misconduct. Further, the Board noted that you ultimately received a pardon. However, this pardon does not entitle you to benefits administered by the Department of Veterans Affairs (DVA). The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted due to the seriousness of your offenses, especially your last lengthy UA. The Board believed that you received considerable clemency when your BCD was pardoned. 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