



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

SJN  
Docket No: 04245-09  
29 March 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 23 March 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.

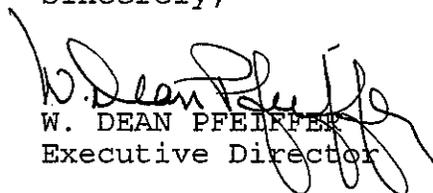
You reenlisted in the Navy on 28 December 1960 after two years of honorable service. On 3 April and 14 August 1964, you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) and disobedience. On 15 October 1964, you were convicted by special court-martial (SPCM) of nine days of UA and uttering a bad check. You were sentenced to a reduction in paygrade, forfeiture of pay, and confinement at hard labor. On 2 February 1965, you were convicted by civil authorities of conspiracy and unlawful entry. You were sentenced to five years in jail. On 25 March 1965, a Board of Officers recommended that you be discharged from the service with an undesirable discharge due to unfitness. On 29 April 1965, your commanding officer forwarded your case concurring with the Boards' findings and recommendation that you receive an undesirable discharge by reason of unfitness. On 17 May 1965, the separation authority approved the recommendation for discharge. On 30 July 1965, you received an other than honorable discharge.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and post service accomplishments. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in two NJP's, SPCM, conviction by civil authorities for very serious offenses, and subsequent incarceration. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans' benefits that accrued during your first period of service. Whether or not you are eligible for benefits based on either period of service is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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