



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

TAL
Docket No: 4594-09
26 March 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 17 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.

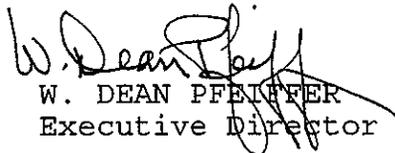
You reenlisted in the Navy on 19 December 1975 after more than three years of prior honorable service. On 13 April 1977, you were convicted by special court-martial (SPCM) of five instances of unauthorized absence (UA) from your unit for a period totaling 274 days. On 21 June 1978, you were convicted, in absentia, by SPCM of two instances of UA from your unit for a period totaling 265 days. The sentence imposed was 45 days confinement, reduction in paygrade, forfeiture of pay and a bad conduct discharge (BCD). On 20 June 1983, you were convicted by SPCM of a four year and eight month period of UA from your unit. The sentence imposed was five months confinement, forfeiture of pay, and reduction in paygrade. You received the BCD after appellate review was complete.

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 the seriousness of your misconduct that resulted in three SPCMs and periods of UA that totaled over six years.

The Board believed that under current regulations you may be eligible for veterans' benefits which accrued during your first period of service. Whether or not you are eligible for benefits is a matter under the cognizance of the Department of Veterans Affairs (DAV), and you should contact the nearest office of the DVA concerning your rights. 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