



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

TAL
Docket No: 4602-09
12 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 3 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 enlisted in the Navy Reserve on 31 May 1974 at age 20. On 15 March 1979, you were issued active duty for training orders. The orders were sent to you by certified mail, however, they were returned undeliverable. On 24 April 1979, you failed to report for the 45 days active duty for training as directed by the Chief of Naval Reserve orders of 15 March 1979, so you were considered to be in unauthorized absence (UA) status. On 6 November 1969, you surrendered to civilian authorities in Helena, Montana, after a period of 196 days of UA from your unit. On 22 February 1980, you began a 141 day period of UA from your unit and surrendered to military control on 13 July 1980. On 8 September 1980, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for the above listed charges of UA. You conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. On 8 September 1980, your commanding officer forwarded his recommendation that you be discharged for the good of the service with an other than honorable (OTH) discharge. On 29 September 1980, the separation authority approved an OTH discharge for the good of the service. On 10 October 1980 you were so discharged. As a result of this

action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service and the character letter accompanying your application. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in periods of UA totaling over 11 months and request for discharge to avoid trial. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. 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