



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

REC
Docket No: 01048-10
15 October 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 14 October 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 and began a period of active duty on 10 June 1977, at age 17. On 3 March 1978, you commenced a period of unauthorized absence (UA) for six days. Your chain of command, decided not to punish you for this misconduct. On 7 April 1978, a mental health evaluation was conducted, you were diagnosed with an immature personality disorder, and recommended for discharge. However, at completion of your evaluation, you began a period of UA lasting 442 days. Upon your return, you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for a period of UA totaling over 14 months. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. On 9 November 1979, your request for discharge was denied. On 19 December 1979, you were convicted by a special court-martial (SPCM) of being in an unauthorized absence (UA) status on two occasions totaling 448 days. You were sentenced to forfeitures of \$885, reduction in pay grade and confinement at hard labor for 60 days. However, the same day of

your SPCM, you commenced a third period of UA lasting 48 days. On 9 January 1980, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. The discharge authority directed an other than honorable discharge by reason of misconduct. On 22 February 1980, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your lengthy periods of UA. 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