



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

TJR
Docket No: 1415-10
26 October 2010

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 20 October 2010. The names and votes of the members of the panel will be furnished upon request. 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 17 April 1972 at age 18 and began a period of active duty on 10 May 1972. You served without disciplinary incident until 14 April 1973, when you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA). On 25 June 1973 you received NJP for six periods of absence from your appointed place of duty and a one day period of UA. About seven months later, on 30 January 1975, you were convicted by summary court-martial (SCM) of two periods of UA totalling 104 days and were sentenced to confinement at hard labor for 30 days, reduction to paygrade E-1, and a \$120 forfeiture of pay.

On 26 February 1976 you were convicted by special court-martial (SPCM) of four periods of UA totalling 135 days. You were sentenced to confinement at hard labor for 75 days, a \$600 forfeiture of pay, and a bad conduct discharge (BCD). However, three months later, on 17 May 1976, you began another period of UA. As a result, on 23 July 1976, you were again convicted by

SPCM of a 44 day period of UA and sentenced to confinement at hard labor for three months, a \$720 forfeiture of pay, and a BCD. Subsequently, the BCD was approved at all levels of review and on 4 May 1977 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge so that you would be eligible for medical benefits. It also considered your assertion of racism. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which included frequent and lengthy periods of UA from the Navy and resulted in two NJPS, a SCM, and two SPCMs. Finally, the Board noted that you were sentenced to a BCD at an earlier court-martial, but began another period of UA, thus removing any opportunities you may have had to earn a better characterization of service. Accordingly, your application has been denied.

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