



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

TAL  
Docket No: 3926-09  
23 April 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 April 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 19 June 1963 at age 22. You received nonjudicial punishment (NJP) twice on 4 September 1964 and 31 December 1965, for failure to go to your appointed place of duty and assault. On 17 May 1966 and 12 July 1966, you were convicted by two summary courts-martial (SCM) of unauthorized absence (UA) from your unit, wearing the improper uniform, disobeying a lawful order and disrespect to a petty officer. On 8 September 1966, you were convicted by special court-martial (SPCM) of UA from your unit, and breaking restriction. The sentence imposed was 60 days confinement, forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). The Board of Review remitted the BCD. On 16 May 1967, you received NJP for failure to appear for watch and failure to obey a lawful order. On 12 June 1967, you were again convicted by SPCM of UA from your appointed place of duty, missing ship's movement and assault. The sentence imposed was 120 days confinement, forfeiture of pay and a BCD. You requested suspension of the BCD and restoration to earn an honorable discharge. On 20 October, you waived restoration and requested the BCD, saying in part, you disliked the Navy". 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 NJPs, two SCMs and two SPCMs. Finally, the Board noted that you were given an opportunity to earn a better characterization of service when the BCD you received at an earlier court-martial was suspended, but failed to do so as evidenced by your continued misconduct. Concerning your alleged mental problem post traumatic stress disorder, there is no indication in the record that such problems, if they existed at the time of your service, were so serious as to excuse you of responsibility for your actions or were sufficiently mitigating to warrant recharacterization. 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