



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

TAL
Docket No: 5699-10
11 February 2011

[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 9 February 2011. 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.

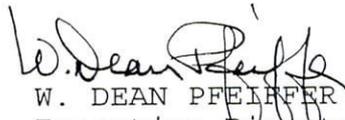
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 22 January 1975 at age 20. On 17 November 1976, you received nonjudicial punishment (NJP) for three instances of sleeping on watch. On 27 January 1977, you received NJP for unauthorized absence from your unit for a period of five days. On 26 May 1977, you were convicted by special court-martial (SPCM) of theft of a pickup truck. The sentence imposed was confinement for three months, forfeiture of pay and reduction in paygrade. On 7 July and 11 August 1977, you received NJP for failure to go to your appointed place of duty. After your third NJP, you were counseled regarding your misconduct and warned that further offenses could result in administrative separation. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct. You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 13 September 1977, the separation authority approved the OTH discharge for misconduct. On 16 September 1977 you were so discharged.

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 four NJPs and a SPCM. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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