



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

SJN
Docket No: 00152-11
7 July 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 6 July 2011. 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 Reserve and began a period of active duty on 19 August 1942. The Board found that on 2 December 1943, you were convicted by summary court-martial (SCM) of 20 days of absence over leave (AOL). On 20 April 1944, you were convicted by a general court-martial (GCM) of 16 days of AOL. You were sentenced to a reduction in paygrade, three years confinement, and a dishonorable discharge (DD). However, the convening authority mitigated your sentence to 15 months of confinement and a bad conduct discharge (BCD). You were informed that if you conducted yourself in a manner satisfactory to your command, the unexecuted portion would be mitigated after five months, and be held in abeyance upon successful completion of six months probation, to include the BCD. You were restored to full duty on 29 September 1944. On 6 October 1944, you began a period of AOL, in time of war, which lasted over 10 months, ending on 23 August 1945. Subsequently, your probation was terminated, and the sentenced approved and mitigated on 28 April 1944, was executed. You received the DD on 27 May 1946 after appellate review was completed. The Board, in its review of your record

and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your SCM and GCM convictions of very lengthy periods of AOL during time of war. Accordingly, your application has been denied.

With regard to your total active duty service, please be advised that periods of AOL do not count. If you have any further concerns regarding your active duty time, please contact, in writing, the Navy Personnel Command, 5720 Integrity Drive, Millington, Tennessee, 38055.

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