



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

SJN
Docket No: 03505-11
1 February 2012



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 31 January 2012. 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.

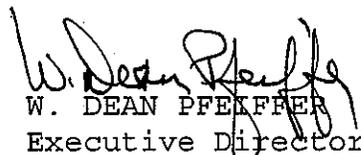
You enlisted in the Navy and began a period of active duty on 6 December 1972. The Board found that although your record is incomplete, it appears you received two nonjudicial punishments (NJP's) for one unknown offense, disobedience, and two periods of unauthorized absence (UA). Based on the information currently contained in your record it appears that you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for an unknown offense. Prior to submitting this request for discharge, you would have conferred with a qualified military lawyer, been advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Your request for discharge was granted and on 17 July 1974, you received an other than

honorable discharge for the good of the service in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, events you state that resulted in your discharge, and contention that you requested and were granted an "early out" by your commanding officer. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in two NJP's, charges being preferred to a court-martial, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. Further, the Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual submits a request for a good of the service discharge in order to avoid trial by court-martial. Finally, concerning your contention, there is no evidence in the record to support it, and you submitted no such evidence. 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