



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

TJR  
Docket No: 10642-12  
16 October 2013

[REDACTED]

[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 8 October 2013. 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 31 July 1990 and began a period of active duty on 9 October 1990. You served for about a year and seven months without disciplinary incident, but during the period from 5 February to 21 July 1992, you received nonjudicial punishment (NJP) on three occasions for two periods of absence from your appointed place of duty and two periods of unauthorized absence (UA) totalling 39 days.

Your record reflects that on 4 June 1992 you began a period of UA and stated that you did not intend to return to duty. Due to your stated intention, you were declared a deserter and a Declaration of Desertion (DD Form 553) was prepared and entered into the National Crime Information Center of the Federal Bureau of Investigation (FBI). As a result a warrant was subsequently issued and on 1 July 1992 you were apprehended and confined by civil authorities.

After your return to military custody in August 1992, you were processed for an administrative separation by reason of misconduct due to commission of a serious offense and a pattern of misconduct. After waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board (ADB), on 20 August 1992, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense and a pattern of misconduct. On 17 September 1992 the discharge authority approved the recommendation for discharge and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 22 September 1992, you were so discharged.

Your record contains correspondence from the Bureau of Naval Personnel dated 13 July 1994 which states, in part, that the DD Form 553 (mark of desertion) was legally, properly, and correctly written and issued as reflected in the record.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to have the mark of desertion and all references thereto removed from your record and the records of the FBI. In this regard, the Board has no authority to correct FBI records. It also considered your assertion that the mark of desertion is in error because you were only UA for 22 days and had intended to and subsequently did return to your duty station after you turned yourself into the nearest command. Nevertheless, the Board concluded these factors were not sufficient to warrant removal of the mark of desertion from your record. Further, your record reflects evidence that is contrary to your assertion. Finally, there is no evidence in the record, and you submitted none, to support your assertion that you turned yourself into the nearest command. 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