



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

TJR
Docket No: 51-03
24 October 2003

[REDACTED]

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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 21 October 2003. 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 18 February 1977 at age 18.

On 12 December 1977 you were convicted by special court-martial (SPCM) of three periods of unauthorized absence (UA) totalling 141 days. You were sentenced to confinement at hard labor for three months and a \$786 forfeiture of pay.

Subsequently, on 3 January 1978, you were notified of pending administrative separation action by reason of unsuitability. At that time you waived your right to consult with legal counsel and to submit a statement in response to the separation action. On 5 January 1978 your commanding officer recommended a general discharge by reason of unsuitability due to apathy and a defective attitude. The discharge authority approved this recommendation and directed a general discharge by reason of unsuitability, and on 10 January 1978 you were so discharged.

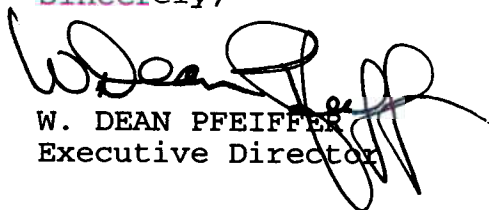
At the time of your separation character of service was based, in part, on conduct and overall trait averages which were computed from marks assigned during periodic evaluations. Your conduct average was 1.0. An average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your assertion that you were told that you would be eligible for a discharge upgrade upon completion of your six month probation period. Nevertheless, the Board concluded these factors were not sufficient to warrant a recharacterization of your service because of your repetitive periods of UA, which resulted in a court-martial conviction, and since your conduct average was insufficiently high to warrant a fully characterization of service. Additionally, no discharge is upgraded solely due to the passage of time 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