



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

TJR
Docket No: 10463-02
22 September 2003

[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 16 September 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 13 March 1972 at age 18. On 28 June 1972 you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totalling five days. The punishment imposed as a \$15 forfeiture of pay and restriction and extra duty for five days. On 23 August 1972 you were convicted by special court-martial (SPCM) of unlawful possession of a pistol and assault with a dangerous weapon. You were sentenced to a \$220 forfeiture of pay.

On 19 January 1973 you were convicted by SPCM of two periods of UA totalling three days, theft of \$45, and assault. You were sentenced to confinement at hard labor for two months, a \$300 forfeiture of pay, and a bad conduct discharge (BCD). On 2 April 1973 the BCD was approved at all levels of review. On 11 May 1973 you received NJP for three periods of UA totalling nine days, breaking restriction, being in an improper uniform, and loss of an identification card. The punishment imposed was restriction for 10 days and a \$307.20 forfeiture of pay.

On 15 May 1973 a judge advocate recommended that the BCD be suspended, stating in part, that you could become a credit to the Navy. On 24 May 1973 you submitted a written request for clemency stating, in part, as follows:

I am planning on getting married.... want probation for six months.... if I get into trouble, I will take the BCD.... my stepfather is a heavy dope user.... I want to start a new life in the Naval Service.

Despite the foregoing, during the period from 4 June to 12 July 1973 you received NJP on three more occasions for destruction of government property, making a false official statement, two specifications of failure to obey a lawful order, and two periods of absence from your appointed place of duty. On 25 July 1973 the judge advocate's recommendation for suspension was withdrawn. On 23 October 1973 you were convicted by civil authorities of petty theft and sentenced to confinement for 14 days, which was suspended for a year.

Subsequently, the BCD was approved at all levels of review and on 19 February 1974 you were so discharged.

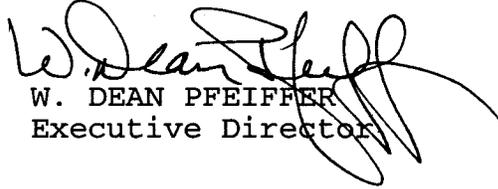
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you believe that your discharge should be overturned. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in five NJPs, two court-martial convictions, and a civil conviction. 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