



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

SJN
Docket No: 03994-07
4 February 2008



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 24 January 2008. 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 26 May 1965 at age 18. On 1 June and 2 October 1976 you were convicted by special court-martial (SPCM) of two periods of unauthorized absence (UA) totaling 118 days, breaking arrest, and a brief period of UA.

During the period from 2 January to 10 June 1968, you had three periods of UA totaling 125 days. Additionally, you were convicted by civil authorities of receiving stolen property. You were sentenced to two years in jail. However, it was ordered that you served only the first 60 days and the last 22 months were suspended, which was conditioned upon your good behavior.

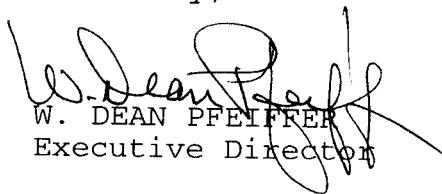
You were processed for an administrative discharge by reason of unfitness due to civil conviction. You elected to waive the right to have your case heard by a board of officers. On 17 June 1968, your commanding officer forwarded his recommendation for an undesirable discharge by reason of unfitness. On 26 June 1968, the Chief of Naval Personnel directed an undesirable discharge.

However, on 9 July 1968, you were convicted by SPCM of the three earlier periods of UA. You were sentenced to confinement at hard labor, a forfeiture of pay, a reduction in paygrade, and a bad conduct discharge (BCD). You received the BCD after appellate review was completed.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of three SPCM's for periods of UA totaling about eight months, and conviction by civil authorities. 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