



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

TJR
Docket No: 8758-07
27 October 2008

[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 21 October 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 4 April 1957 at age 17 and served for about nine months without disciplinary incident, but on 29 January 1958 you were convicted by special court-martial (SPCM) of absence from your appointed place of duty and sentenced to hard labor for 20 days, restriction for 30 days, and a \$57 forfeiture of pay. During the period from 25 March to 29 December 1958, you received nonjudicial punishment (NJP) on four occasions for a one day period of unauthorized absence (UA) and three periods of absence from your appointed place of duty.

During the period from 30 December 1959 to 2 July 1960 you were in a UA status on three more occasions. As a result, on 2 September 1960, you were convicted by general court-martial (GCM) of three periods of UA totalling 184 days and sentenced to a \$360 forfeiture of pay, confinement at hard labor for six months, and a bad conduct discharge (BCD). On 9 November 1960, while in confinement, you submitted a written request for immediate execution of the BCD, in which you stated, in part, as follows:

I feel that I can't make enough capital to pay off my bills. I already have a law suit against me. I can't pay it off because I am in a nonpay status.

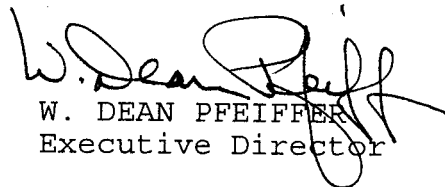
Subsequently, the BCD was approved at all levels of review, and on 27 January 1961 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, explanation for your periods of UA, and assertions regarding your post service mental and physical health problems. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct and lengthy period of UA which resulted in four NJPs and two court-martial convictions. 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