



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

TJR  
Docket No: 11106-07  
6 November 2008

[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 5 November 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 2 February 1981 at age 17 and served without disciplinary incident until 18 May 1981, when you received nonjudicial punishment (NJP) for five periods of failure to go to your appointed place of duty. On 10 July 1981 you received NJP for a 41 day period of unauthorized absence (UA). The punishment imposed was a \$500 forfeiture of pay and extra duty and restriction for 45 days. On 14 July 1981, after breaking restriction, you began another period of UA that was not terminated until you were apprehended by civil authorities. As a result, on 10 August 1981, you were convicted by civil authorities of drunk and disorderly conduct and sentenced to confinement for 30 months. However, the sentence was subsequently suspended and on 30 August 1981 you were returned to military custody.

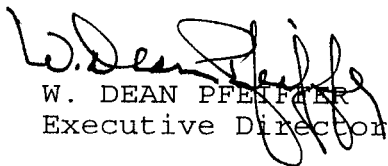
Although the discharge documentation is not in your record, it appears that you requested discharge for the good of the service to avoid trial by court-martial. Regulations required that before making such a request, an individual must be advised by military counsel concerning the consequences of such a request. Since the record shows that you were discharged by reason of good of the service to avoid trial on 2 October 1981, the Board presumed that the foregoing occurred in your case. Because you requested discharge in lieu of trial, you avoided the possibility of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertion of suffering from manic depression. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, lengthy period of UA, and your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board further concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. Further, there is no evidence in your record, and you submitted none, to support your assertion of manic depression. 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