



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

RDZ:ecb
Docket No. 10603-08
13 August 2009

[REDACTED]

[REDACTED]

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 11 August 2009. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 25 August 1976 for a term of four years. A little less than ten months later you went on unauthorized absence (UA) for 75 days. While awaiting disciplinary proceedings for that offense you went on a second period of UA that lasted 43 days. Upon your return to military custody and after consulting with a military lawyer you requested that Navy authorities issue you an other than honorable discharge (OTH) instead of referring you to trial by court-martial. Your purpose in making this request was to avoid having to serve a substantial period of confinement at hard

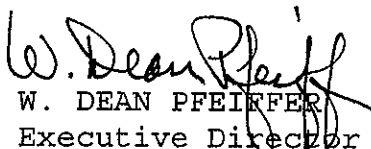
labor as well as the imposition of a bad conduct discharge. Your request was granted and on 7 December 1977 you received an OTH.

In its review of your application the Board concluded that in view of your two lengthy UAs, the first of which occurred less than ten months after enlisting, as well as your request for an OTH in lieu of court-martial your discharge was proper as issued and should not be changed now as a matter of clemency. The Board believed that considerable clemency was shown to you when your request for an OTH was granted which allowed you to avoid the more serious penalties of a court-martial 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