



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

TRG
Docket No: 1504-09
7 April 2009



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 March 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 initially enlisted in the Navy on 29 February 1980 and served on active duty until you were honorably discharged on 16 December 1984. You reenlisted in the Navy on 17 December 1984. On 27 September 1985 and 1 May 1986 you received nonjudicial punishment for wrongful use of marijuana and an unauthorized absence of about 11 hours. A special court-martial convened on 10 June 1986 and convicted you of escape from custody which resulted in a declaration of desertion and an unauthorized absence of about 14 days. The court sentenced you to forfeitures of pay, 45 days confinement at hard labor and a bad conduct discharge. The bad conduct discharge was issued on 18 May 1987.

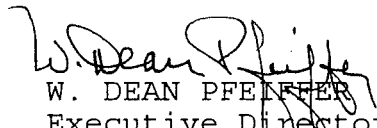
In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service and contention, in effect, that you did not contest the bad conduct discharge because you were told you were eligible for veterans' benefits based on your first period of honorable service. The Board found that these factors and contention were not sufficient to warrant recharacterization of the bad conduct discharge given the nature of your offenses. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans benefits based on your first period of honorable service. Therefore, if you have been denied benefits, you should appeal that denial under procedures established by the Department of Veterans Affairs.

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