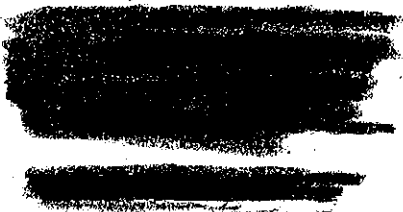




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 2243-09
27 January 2010



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 20 January 2010. The names and votes of the members of the panel will be furnished upon request. 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 27 July 1972 at age 17 and served without disciplinary incident until 6 October 1973, when you received nonjudicial punishment (NJP) for misbehavior as a sentinel/lookout. Shortly thereafter, on 25 October 1973, you received NJP for failure to obey a lawful order and disorderly conduct in public.

On 15 January 1974 you began a period of unauthorized absence (UA) that was terminated when you were apprehended by civil authorities on charges of transporting a rental car across the state line/automobile grand theft. The charge was held in abeyance and on 18 January 1974 you were returned to military custody. However, on 4 February 1974 you began another period of UA that was not terminated until you were apprehended by civil authorities on 16 January 1975 on the charge of burglary in the


first degree. On 18 March 1975 you were convicted by civil authorities of the foregoing charge and sentenced to probation for five years. On 21 March 1975 you were returned to military custody.

On 29 April 1975 you were convicted by special court-martial (SPCM) of a 410 day period of UA. You were sentenced to confinement at hard labor for 30 days and a \$450 forfeiture of pay, reduction to pay, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and on 26 June 1975, 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, desire to upgrade your discharge, and assertion that you went UA because of riots, drinking, and not getting along with your superiors. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your repetitive misconduct in both the military and civilian communities. Finally, there is documented evidence in the record which is contrary to your assertion. Accordingly, your application has been denied.

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