



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

SJN
Docket No: 04143-09
22 March 2010



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 16 March 2010. 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 and began a period of active duty on 28 May 1980 at age 20. On 6 February 1981, you were convicted by summary court-martial (SCM) of unauthorized absence (UA) and larceny. On 26 May 1981, you were convicted by special court-martial (SPCM) of larceny and disobedience. You were sentenced to a forfeiture of pay, reduction in pay grade, confinement at hard labor, and a bad conduct discharge (BCD). You received the BCD after appellate review was completed.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and contentions. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your SCM and SPCM convictions for serious offenses. Concerning your contentions please be advised that the Board is expressly forbidden by law from reviewing the findings of guilt rendered by a court-martial and therefore must restrict its review to the sentence which was imposed. The Board concluded that a BCD was an appropriate separation in light of the seriousness of your misconduct. 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