



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

TAL
Docket No: 11249-09
27 July 2010

[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 21 July 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 21 August 1951 at age 17. On 26 July 1952, you were convicted by summary court-martial (SCM) of unauthorized absence (UA) from your unit for a period of 11 days and missing ship's movement. On 25 September 1952, you were convicted by SCM of two instances of UA from your unit for a period totaling four days. On 5 May 1953, you were convicted by special court-martial (SPCM) of a 17 day period of UA from your unit. On 8 March 1954, you were again convicted by SPCM of a four day period of UA and missing ship's movement. The sentence imposed was confinement for three months, forfeiture of pay and a bad conduct discharge (BCD). The BCD was suspended for a period of six months, unless the suspension was vacated due to further misconduct. If no further misconduct the BCD would have been remitted without further action. On 17 June 1954, you received nonjudicial punishment (NJP) for UA from your appointed place of duty. On 25 June 1954, you received NJP for insubordinate conduct toward a petty officer. On 7 July 1954 the BCD was vacated due to your continued misconduct. You received the BCD after appellate review was complete.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs, two SCMs and two SPCM convictions. Finally, the Board also noted that you were given an opportunity to earn a better characterization of service when the BCD you received at an earlier court-martial was suspended, but failed to do so as evidenced by your continued 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