



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

TJR
Docket No: 3013-10
26 January 2011

[REDACTED]

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 2011. 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 9 February 1970 at age 17 and served without disciplinary infraction until 3 March 1970, when you began a period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 16 March 1970. On 15 April 1970 you were returned to military custody. As a result, on 21 May 1970, you were convicted by summary court-martial (SCM) of a 13 day period of UA.

On 21 January 1971 you were convicted by special court-martial (SPCM) of a 193 day period of UA and failure to obey a lawful order. You were sentenced to confinement at hard labor for six months and a \$300 forfeiture of pay.

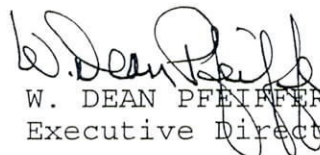
Subsequently, you were administratively processed for separation by reason of unsuitability due to apathy. At that time you did not object to the separation and waived your procedural rights. Shortly thereafter, your commanding officer recommended discharge under honorable conditions due to apathy as evidenced by your

nonpotential as a petty officer. The discharge authority approved the recommendation and directed your commanding officer to issue you a general discharge by reason of unsuitability. On 17 June 1971, after serving for three months and seven days on active duty, you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, short period of active duty service, and desire to have your length of service extended to include your periods of time lost. Nevertheless, the Board concluded these factors were not sufficient to warrant relief because of your repeated misconduct resulting from your repetitive and lengthy periods of UA and confinement. Further, in accordance with regulatory guidelines, your 390 days of lost time are not credited as time served and therefore cannot be included to your length of service. 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