



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

REC
Docket No: 04433-10
2 February 2011

[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 2 February 2011. 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 17 May 1977. On 15 January 1979, you commenced a period of unauthorized absence (UA) which lasted 16 days. Your chain of command took no disciplinary action. On 18 April 1979, you were convicted by a summary court-martial (SCM) of being in a (UA) status for 32 days. You were sentenced to forfeitures of \$279, reduction in pay grade, and confinement at hard labor for 45 days. On 27 April 1979, you commenced a period of UA which lasted 72 days. On 6 September 1979, you commenced a period of UA which lasted 134 days. You apparently submitted a request for a good of the service discharge to avoid trial by court-martial for your periods of UA. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and warned of the probable adverse consequences of accepting such a discharge. Your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions by reason of the good of service. Your request for discharge was granted and on 2 May 1980, you received an other than honorable discharge for the good of the service in lieu of trial by court-martial. As a result of

this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct and performance, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your service, given your record of misconduct. The Board also concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and should not be permitted to change it now. 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