



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

TAL  
Docket No: 11469-10  
3 August 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 27 July 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 1 July 1973 at age 19. You received nonjudicial punishment (NJP) on two occasions for unauthorized absence (UA) from your unit for a period of four days, wrongful possession, wrongful appropriation of government property, and disobeying a written regulation. On 3 June 1975, you were convicted by special court-martial (SPCM) of assault, two instances of communicating a threat, wrongful disposition of government property and failure to obey a lawful order. The sentence imposed was confinement for three months, a forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 15 October 1975, you were UA from your unit until 11 May 1976, a period of 208 days. On 28 May 1976, you were UA from your unit until 14 June 1976, a period of 17 days. On 16 June 1976, you were again UA from your unit until 12 October 1976, a period of 118 days. On 19 November 1976, you were granted appellate leave awaiting completion of review of your SPCM conviction. On 21 February 1980, 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, a SPCM and periods of UA totaling over 11 months. Concerning your alleged mental problems, if they existed at the time of your service they would not excuse you of responsibility for your actions or warrant recharacterization. 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