



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

SJN
Docket No: 03817-11
15 February 2012



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 14 February 2012. 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.

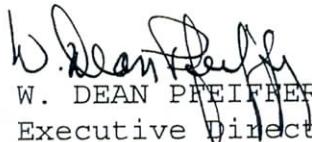
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 27 March 1980. The Board found that you were convicted by a special court-martial (SPCM) of 458 days of unauthorized absence (UA). You were sentenced to confinement at hard labor, a forfeiture of pay, and a reduction in paygrade. On 3 December 1982, you were released from confinement and restored to full duty. Additionally, you were counseled and warned that further misconduct could result in administrative discharge action. On 2 November 1983, you were convicted by a second SPCM of two specifications of UA totaling 65 days. You were sentenced to confinement at hard labor, a forfeiture of pay, and a bad conduct discharge (BCD). You received the BCD on 1 February 1985 after appellate review was completed.

The Board, in its review of your record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, and belief that your characterization of service would be automatically upgraded after two years. Nevertheless, based on the information currently contained in your record, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your two SPCM convictions of periods of UA totaling over 17 months. The Board also noted that you were given a chance for retention, and to earn a better characterization of service when you were restored to full duty after your first SPCM for a very lengthy period of UA. Finally, you are advised that there is no provision of law or in Navy regulations that allows for recharacterization automatically after two years or due solely to the passage of time. 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