



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 4444-98

15 October 1999

[REDACTED]

Dear [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 5 October 1999. 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.

The Board found you reenlisted in the Navy on 14 September 1965 after more than two years of prior honorable service. Your record shows that you continued to served a year without incident, but on 9 November 1966 you received nonjudicial punishment (NJP) for three periods of absence from your appointed place of duty. The punishment imposed was restriction for three weeks. However, on 13 December 1966, you were convicted by summary court-martial (SCM) of a six day period of unauthorized absence (UA) and sentenced to hard labor for 30 days. On 8 May and again on 29 June 1967 you received NJP for a three day period of UA and absence from your appointed place of duty.

Your record further shows that on 12 August and 8 December 1970 you received NJP on two more occasions for four periods of UA totalling 35 days and two incidents of failure to obey a lawful order. On 14 January 1971 you received your sixth NJP for three periods of UA totalling 16 days, failure to obey a lawful order, and breaking restriction. The punishment imposed was restriction for 30 days, reduction to paygrade E-1, which was suspended for six months.

On 8 March 1972 you were convicted by special court-martial (SPCM) of four periods of UA totalling 234 days. You were sentenced to confinement at hard labor for three months, reduction to paygrade E-1, and a bad conduct discharge (BCD). On 5 April 1972 you received NJP for a 15 day period of UA and was awarded a \$100 forfeiture. Approximately six months later, on 25 October 1972, you received your eighth NJP for a 122 day period of UA. The punishment imposed was restriction and extra duty for 45 days, which was suspended for six months. Subsequently, the BCD was approved at all levels of review and ordered executed. On 25 October 1972 you received a BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and good post service conduct. The Board also considered your contentions that you went UA to avoid surgery on both your knees and would now like your discharge upgraded so that you may be entitled to veterans' benefits. However, the Board concluded these factors were not sufficient to warrant a change in the characterization your discharge given the seriousness of your frequent and lengthy periods of UA, which resulted in eight NJPs and two court-martial convictions. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. 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