



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

ELP
Docket No. 1468-99
9 July 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 7 July 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 23 October 1974 for two years as an SN (E-3). At the time of your reenlistment, you had completed nearly six years of prior active service.

The record reflects that you served without incident until 2 July 1975 when you received nonjudicial punishment for threatening an officer, use of racial and reproachful language, and use of indecent language towards a female Sailor. Punishment imposed consisted of 15 days of correctional custody, forfeitures of \$227 per month for two months, and reduction in rate to SA (E-2). Thereafter, you were informed that your conduct in the area of equal opportunity and race relations was in conflict with the goals of the Navy, and you were warned that failure to take corrective action could result in separation processing.

On 8 July 1975, while in correctional custody, you were referred for a psychiatric evaluation because of your threats to various people. Psychological testing was administered, but you left many questions unanswered despite specific directions to answer all questions, thus invalidating the test. The examining psychiatrist stated that throughout the interview, you dredged up past events or alleged injustices done to you by society. You were described as a bitter black man who felt society owed you something. No diagnosis was made.

On 12 July 1975 you received your second NJP for failure to obey a lawful order, disrespect, and threatening a petty officer. Punishment consisted of an additional 10 days in correctional custody and forfeitures of \$227 per month for two months. The forfeitures were suspended for three months.

On 6 August 1975, you were again evaluated and were diagnosed as having a paranoid personality disorder. The examining psychiatrist stated that your behavior was characterized by unwarranted suspicion, hypersensitivity, excessive self-importance and a tendency to ascribe evil to others and to blame them for your problems. However, a follow-up psychiatric interview on 22 August 1975, it was noted that you were now wanting to remain on active duty and to fulfill your military obligation honorably. The psychiatrist stated that a character diagnosis did not preclude effective and appropriate military functioning and opined that from a medical point of view, there was no need to separate you. He suggested that your avowed intention to complete your enlistment should be strongly considered.

On 26 August 1975 you were notified that you were being considered for administrative separation by reason of unsuitability due to the diagnosed paranoid personality disorder. You were advised of your procedural rights and waived those rights. In his recommendation, the commanding officer (CO) stated that your personality disorder caused you to be antagonistic, disrespectful and paranoid towards all those in authority over you. When you were placed in correctional custody, you created a disturbance involving additional threats and disrespect towards a petty officer. Once you were out of correctional custody, you were reported to have made further threats to anyone who might get in your way.

On 22 September 1975, an enlisted performance evaluation board convened in the Bureau of Naval Personnel and recommended that you be separated with a general discharge by reason of unsuitability. On the same day, you were so discharged.

Regulations required that individuals discharged by reason of unsuitability receive the type of discharge warranted by the service record. Character of service is based, in part, on military behavior and overall traits averages which are computed from marks assigned during periodic evaluations. Your military behavior and overall traits averages were 2.8 and 3.35, respectfully. A minimum average mark of 3.0 in military behavior was required for a fully honorable characterization at the time of your discharge.

The Naval Discharge Review Board (NDRB) denied your request for an upgrade of your discharge on 8 September 1986.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your prior honorable service, diagnosed personality disorder, the issues alleging mistreatment and racial discrimination you presented to the NDRB in 1986, and the fact that it has been nearly 24 years since you were discharged. The Board noted your statement explaining the circumstances surrounding the two NJPs and your contentions to the effect that you are not paranoid; you were denied proper legal representation, discriminated against, and physically and psychologically abused while in the brig; denied a scheduled operation for hammer toes; and were transferred back to United States for separation via military aircraft rather than by commercial airliner. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of two NJPs, one of which was for a serious offense, and your failure to attain the required average in military behavior. The Board believed that you were fortunate to receive a general discharge since a discharge under other than honorable conditions could have been issued given your pattern of misconduct. Your contentions are neither supported by the evidence of record nor by any corroborating evidence submitted in support of your application. You have provided no probative medical evidence that the Navy's diagnosis of a personality disorder was invalid or erroneous. While your personality disorder may be considered a mitigating factor, it does not excuse you of responsibility for your actions. The Board concluded that the discharge was proper 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