



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

TJR
Docket No: 2325-99
24 August 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 10 August 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 enlisted in the Navy on 25 July 1979 at the age of 21. Your record reflects that you served for a year and four months without disciplinary incident but on 12 November 1980 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and were awarded forfeitures totalling \$100. Approximately a year later, on 18 September 1981 you receive NJP for insubordination. The punishment imposed was forfeitures totalling \$120 and restriction and extra duty for 14 days.

Your record further reflects that on 8 February 1983 you were convicted by special court-martial (SPCM) of assault and disrespect. You were sentenced to confinement at hard labor for 105 days, reduction to paygrade E-1, and forfeitures totalling \$1,146. Subsequently, you were processed for separation by reason of misconduct due to commission of a serious offense and

frequent involvement of a discreditable nature with military and civil authorities. Shortly thereafter an administrative discharge board recommended you be issued an other than honorable discharge by reason of a misconduct. The discharge authority then directed your commanding officer to issue you an other than honorable discharge by reason of misconduct. On 15 July 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your contention that you would like your discharge upgraded so that you may obtain veterans' benefits. The Board further considered your contention that your discharge was too severe for a first offense for which you should have received counselling, the offense occurred while you were under the influence of alcohol and did not result in any physical harm. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct which resulted in two NJPs and a court-martial conviction. Given all the circumstances of your case, the Board concluded your 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