



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6760-99

18 February 2000

[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 16 February 2000. 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 enlisted in the Naval Reserve on 17 November 1979 for six years. On the same date, you were ordered to active duty for a period of three years in the Active Mariner Program. You were advanced to SA (E-2) and served for 23 months without incident. However, during the 14 month period from October 1981 to December 1982 you received a nonjudicial punishment (NJP) and were convicted by two summary courts-martial. Your offenses consisted of acting to the prejudice of good order and discipline in the armed forces, a 31 day period of unauthorized absence, two instances of disobedience, leaving your ship while in a restricted status, breach of the peace, assault, and communicating a threat.

On 19 December 1982 you were notified that discharge action was being initiated by reason of misconduct due to commission of a serious offense. You were advised of your procedural rights and that if discharge was approved it could be under other than honorable conditions. Thereafter, you waived your right to

consult with counsel and to present your case to an administrative discharge board (ADB). On 29 December 1982, the commanding officer (CO) recommended that you be discharged under other than honorable conditions. In his recommendation, the CO stated that you had been a constant discipline problem due to your disregard for authority and your latest actions had identified you as the "strong arm" of at least one drug dealer on the ship. Your behavior and presence on the ship could no longer be tolerated. The Chief of Naval Personnel approved the recommendation and directed discharge under other than honorable conditions by reason of misconduct. You were so discharged on 1 February 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, letters of reference, regret for your actions, good post-service conduct, and the fact that it has been more than 16 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of an NJP and the serious nature of the offenses of which you were convicted by two summary courts-martial. The Board noted the aggravating factor that you waived your right to an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. 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