



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 7199-98

26 March 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 23 March 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 18 August 1976 at the age of 18. Your record reflects that you served for nearly a year without incident but on 11 July 1977 you received nonjudicial punishment (NJP) for failure to obey a lawful order. The punishment imposed was reduction to paygrade E-3 and forfeitures totalling \$200. On 23 November 1977 you received NJP for three incidents of absence from your appointed place of duty and disrespect. The punishment imposed was restriction for 30 days and forfeiture of a month's pay.

Your record further reflects that during the period from 20 December 1977 to 20 September 1979 you were in an authorized absence (UA) status on two occasions for 274 days. During this period you were also declared a deserter. Shortly thereafter, on 25 November 1979, you began a four day period of UA that was not terminated until 29 November 1979. On 9 December 1979 you received NJP for possession of marijuana. The punishment imposed was forfeiture of two month's pay, extra duty and restriction for 45 days, and reduction to paygrade E-2. On 26 December 1979 you began a 265 day period of UA that was not terminated until 17

September 1980. During this period you were also declared a deserter.

Your record also reflects that from 19 to 26 March 1981 you were in a UA status on two occasions for a total of five days. Shortly thereafter, on 10 April 1981, you were convicted by special court-martial (SPCM) of possession of marijuana and wrongful introduction of marijuana aboard your ship. You were sentenced to confinement at hard labor for two months, reduction to paygrade E-1 and forfeitures totalling \$500. The confinement was suspended for six months. On 8 June 1981 you began a 15 day period of UA that was not terminated until 23 June 1981.

Subsequently, on 23 July 1981, you were notified of pending administrative separation action by reason of convenience of the government. At this time you waived your rights to consult with legal counsel or to present your case to an administrative discharge board. On 12 August 1981 you were so separated with a general discharge.

Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.4. An average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, post service conduct, inaptitude, drug use, and your contention that would like your discharge upgraded to honorable. The Board further considered your contention that your ability to serve was impaired by your personal, medical, and physical problems. The Board also considered the letter of character reference you submitted. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct, especially the lengthy periods of UA, which resulted in three NJPs and a court-martial conviction. The Board also noted your failure to attain the required average mark in conduct. Given all the circumstances in 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