



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7582-98

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 24 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 28 October 1975 for four years at age 18. The record reflects that you were advanced to MSSN (E-3) and served for nearly 29 months without incident. However, during the 18 month period from March 1978 to September 1979, you received four nonjudicial punishments (NJP) and were convicted by two summary courts-martial and a special court-martial. Your offenses consisted of eight periods of unauthorized absence (UA) totalling about 97 days, absence from your appointed place of duty, possession of a pipe with marijuana residue, missing movement, breaking restriction, violation of a general order by climbing over a perimeter fence, two instances of possession of marijuana, possession of drug paraphernalia, and failure to perform extra duty and restriction.

On 4 October 1979, the Chief of Naval Personnel authorized your transfer to a naval drug rehabilitation center for treatment. An evaluation by the rehabilitation center on 20 October 1979

indicated that you were considered not amenable for treatment due to your lack of desire to change your behavior, and noted that you did not appear to be drug dependent. You were not recommended for retention. On 31 October 1979, you refused rehabilitation and signed a statement that you understood the ramifications of such a refusal. Thereafter, you were notified that you were being considered for discharge under other than honorable conditions by reason of misconduct due to your frequent involvement of a discreditable nature with military authorities and drug abuse. You were advised of your procedural rights, declined to consult with counsel, and waived your right to an administrative discharge board. On the same date, you requested an early return to the civilian community in lieu of waiting for final action on the administrative discharge. Your request was approved. On 20 December 1979, the commanding officer recommended that you be discharged under other honorable conditions by reason of misconduct due to frequent involvement with military authorities and drug abuse. He advised the Chief of Naval Personnel that you had been discharged on 31 October 1979. The Chief of Naval Personnel approved the recommendation on 17 January 1980 and directed discharge under other than honorable conditions by reason of frequent involvement of a discreditable nature with military authorities.

In its review of your application, the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been nearly 20 years since your were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of four NJPs and convictions by two summary courts-martial and a special 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. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that you were guilty of too much misconduct to warrant recharacterization of your discharge to honorable or under honorable conditions. The Board thus concluded 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