



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

TJR  
Docket No: 433-01  
25 June 2001

[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 19 June 2001. 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 21 July 1977 at the age of 18. Your record reflects that you served for nearly two years without disciplinary incident but on 11 July 1979 you received nonjudicial punishment (NJP) for disobedience, disrespect, and assault. The punishment imposed was a \$50 forfeiture of pay and restriction and extra duty for 10 days. On 4 December 1979 you received NJP for a three day period of unauthorized absence (UA) and absence from your appointed place of duty. The punishment imposed was restriction and extra duty for 15 days.

Your record further reflects that on 1 February and again on 20 March 1980 you received NJP for two incidents of absence from your appointed place of duty, missing the movement of your ship, and possession of marijuana.

On 4 April 1980 you began a 407 day period of UA that was not terminated until you were apprehended by civil authorities on 17 March 1981. On 24 June 1981 you submitted a written request for an undesirable discharge in order to avoid trial by court-martial

for the foregoing period of UA. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your request was granted and your commanding officer was directed to issue you an other than honorable discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 16 July 1981 you were so discharged.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity. The Board also considered your contention that your discharge should be upgraded because it has been over 19 years since you were discharged. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given your repetitive misconduct and your request for discharge to avoid trial for a lengthy period of UA. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. 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