



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2125-00

20 September 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 6 September 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 10 January 1974 at the age of 19. Your record reflects that on 12 December 1974 you received nonjudicial punishment (NJP) for a 31 day period of unauthorized absence (UA). The punishment imposed was forfeitures totalling \$150 and restriction and extra duty for 45 days.

Your record further reflects that on 17 January 1975 you were convicted by civil authorities of possession of marijuana and fined \$125. Shortly thereafter, on 18 February 1975, you were convicted by special court-martial (SPCM) of absence from your appointed place of duty, a two day period of UA, and two specifications of disobedience. You were sentenced to reduction to paygrade E-1, confinement at hard labor for two months, and a \$458 forfeiture of pay. On 9 July 1975 you received NJP for failure to go to your appointed place of duty and absence from your appointed place of duty. The punishment imposed was a \$150 forfeiture of pay, correctional custody for five days, and restriction for 20 days.

Subsequently, you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military and civilian authorities. After consulting with legal authorities, you chose to waive your right to submit a statement in rebuttal to the discharge. On 8 August 1975 the discharge authority directed your commanding officer to issue you a general discharge by reason of unfitness. On 12 August 1975 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 request to upgrade your discharge to fully honorable. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

Further, Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve some useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

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