



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

CRS
Docket No: 2548-00
11 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 30 May 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 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 13 October 1976 at age 19. A special court-martial convened on 28 June 1978 and you were found guilty of unauthorized absences totalling seven days, absence from your appointed place of duty on 15 occasions, and willful disobedience of a lawful order on two occasions. The court sentenced you to confinement at hard labor for two months.

A psychiatric evaluation, conducted on 12 July 1978, found that you had a personality disorder and recommended your separation. Subsequently, on 7 November 1978 you received nonjudicial punishment (NJP) for unauthorized absences totalling 26 days. The punishment imposed consisted of a forfeiture of \$243, restriction for 30 days, and reduction in rate.

While your record does not contain the separation processing documents, it appears that the commanding officer recommended that you be separated with a general discharge by reason of unsuitability due to a diagnosed personality disorder. The record clearly shows that you were discharged on 8 November 1978

with a general discharge by reason of unsuitability due to a personality disorder.

Concerning your request for removal of the special court-martial, the Board is prohibited by law from reviewing the findings of a court-martial and must restrict its review to determine if the sentence of the court-martial should be reduced as a matter of clemency. The Board found that no change to the sentence should be made.

Concerning your request for the removal of the 7 November 1978 NJP, the Board noted your contentions. However, you have submitted no evidence, and the record contains none, to support the contention that your NJP should be removed. In the absence of such evidence, the Board presumed that your commanding officer did not abuse his discretion in imposing the NJP. Accordingly, the Board concluded that your NJP was not unjust.

Your Privacy Act requests concerning changes to your medical record should be addressed to the Bureau of Medicine and Surgery, 2300 E Street, N.W., Washington, D.C., 20372-5300.

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