



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

ELP
Docket No. 2994-01
16 November 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 Navy Records, sitting in executive session, considered your application on 15 November 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 17 September 1976 for four years as an SN (E-3). At that time, you extended your enlistment for an additional period of 24 months in exchange for training in the advanced electronics field and accelerated advancement to pay grade E-4.

The record reflects that on 29 November 1976 a preliminary investigation revealed that you had failed to reveal a pre-service civil arrest and drug usage. However, on the recommendation of the commanding officer, the Chief of Naval Personnel authorized your retention.

The record further reflects that you were advanced to DS3 (E-4) and served for nearly 38 months without incident. However, during the nine month period from November 1979 to December 1980

you received three nonjudicial punishments (NJP) and were convicted by a summary court-martial. Your offenses consisted of five instances of failure to go or absence from your appointed place of duty, two instances of failure to obey a lawful order, breaking restriction, disrespect, and five periods of unauthorized absence (UA) totaling about 48 days. After your second NJP, you were formally counseled regarding your frequent involvement of a discreditable nature with military authorities and warned that failure to take corrective action on your conduct could result in separation under other than honorable conditions.

On 12 December 1980 you were notified that action to discharge you under other than honorable conditions had been initiated by reason of misconduct due to frequent involvement with military authorities. You were advised of your procedural rights, declined to consult with legal counsel, and waived the right to present your case to an administrative discharge board (ADB).

On 12 February 1981 you received your fourth NJP for damaging a government truck, seven instances of absence from your appointed place of duty, a two-day period of UA, two instances of disobedience of a lawful order, and disrespect. Thereafter, the commanding officer recommended that you be discharged under other than honorable conditions.

On 10 April 1981 the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct due to frequent involvement with military authorities. You were so discharged on 16 April 1981.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, post-service accomplishments, and the fact that it has been more than 20 years since you were discharged. The Board noted that on your application, you state that you received a general discharge under other than honorable conditions. There is no such characterization. A general discharge is always under honorable conditions. You were administratively separated under other than honorable conditions.

The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of 25 offenses, for which you received four NJPs and were convicted by summary court-martial. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board concluded that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded that 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