



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

ELP
Docket No. 3182-01
31 August 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 29 August 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.

You enlisted in the Navy on 22 September 1971 for four years at age 19. Your records reflects that after recruit training, you and were assigned to the USS OKLAHOMA CITY and subsequently advanced to SN. You reported to GM "A" School for temporary duty under instruction on 22 May 1973.

You were reported as an unauthorized absentee (UA) from 4 June to 13 July and again from and 4 September to 30 October 1973. On 16 November 1973 you submitted a request for an undesirable discharge for the good of the service to escape trial by court-martial for the foregoing two periods of UA totalling about 95 days. 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. On 11 December 1973 the discharge authority approved your request and directed an undesirable discharge for the good of the service. You were so discharged on

14 December 1973. Your DD Form 214 shows that you were entitled to the Vietnam Service Medal, presumably for service on board the USS OKLAHOMA CITY.

On 2 November 1979 the Naval Discharge Review Board denied your request for an upgrade of your discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, Vietnam service, and the fact that it has been nearly 28 years since you were discharged. The Board noted your contention to the effect that you had become alcohol and drug dependent while you were overseas and were not offered any treatment at the time. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given the fact that you accepted discharge rather than face trial by court-martial. 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. Your contention is neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board thus concluded that your 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