



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

ELP
Docket No. 3711-01
28 September 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 26 September 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 4 June 1980 for four years at age 17. The record reflects that you were advanced to OASN (E-3) and served for 21 months without incident. However, during the 16 month period from March 1982 to May 1983, you were convicted by a special court-martial and a summary court-martial, and received a nonjudicial punishment (NJP). Your offenses consisted of possession, introduction, and transfer of marijuana; a three hour period of unauthorized absence (UA) and a 12 day period of UA; and wrongful appropriation of government property. During this period, you were also formally counseled for being late to quarters, unsatisfactory appearance and uniforms, disrespect, communicating a threat, absence from appointed place of duty, and attempting to steal government property. You were warned that failure to take corrective action could result in administrative separation. You responded "I want an administrative discharge, get me out any way you can."

On 27 July 1983 you were notified that an other than honorable

discharge was being considered by reason of misconduct due to a pattern of misconduct. 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). Thereafter, the commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. The Commander, Naval Military Personnel Command approved the recommendation and directed discharge under other than honorable conditions. You were so discharged on 12 September 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been 18 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of an NJP and convictions by a summary court-martial and a special court-martial. The Board noted the aggravating factor that you waived the right to an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. You have provided neither probative evidence nor a persuasive argument in support of your application. The Board 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