



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

TJR
Docket No: 3764-01
9 November 2001

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

The Board found you enlisted in the Navy on 4 April 1980 at the age of 17. Your record reflects that you served for a year and seven months without disciplinary incident but on 18 November 1981 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and were awarded restriction for 20 days, a part of which was suspended.

On 12 February 1982 you were convicted by summary court-martial (SCM) of three periods of absence from your appointed place of duty, a day of unauthorized absence (UA), three specifications of disobedience, and dereliction in the performance of your duties. You were sentenced to reduction to paygrade E-2, a \$428 forfeiture of pay, and confinement at hard labor for 30 days. On 25 October 1982 you received NJP for absence from your appointed place of duty and were awarded restriction and a reduction in paygrade.

Your record further reflects that on 18 March 1983 you received NJP for absence from your appointed place of duty and were awarded a \$642 forfeiture of pay, reduction to paygrade E-1, and extra duty for 45 days. Shortly thereafter, on 24 March 1983, you were arrested by civil authorities for driving while intoxicated and obstructing justice, and held in custody until 16 April 1983. During this period you were also recommended for a general discharge by reason of misconduct due to a pattern of misconduct. On 20 May 1983 you were convicted by special court-martial (SPCM) of three periods of UA totalling 48 days and breaking restriction. You were sentenced to confinement at hard labor for a month, a \$382 forfeiture of pay, reduction to paygrade E-1, and a bad conduct discharge (BCD). A portion of the forfeitures and the BCD were suspended for a year.

On 21 July 1983, after an unspecified period of UA, your urine tested positive for marijuana. On 25 October 1983 you received NJP for absence from your appointed place of duty and were awarded restriction and extra duty for 45 days, all of which was suspended for six months.

Subsequently, the suspension of the forfeitures and BCD were vacated. On 15 November 1983 the BCD was to be executed, however, because you were again in a UA status, the BCD could not be delivered. The record reflects that on 19 December 1983 you were issued a Certificate of Release or Discharge from Active Duty (DD Form 214) which indicated you received a BCD on 15 November 1983.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and the length and quality of your service. The Board also considered your contentions that your ability to serve was impaired by your alcohol abuse, and that although your discharge was based on many offenses, they were mostly minor in nature. The Board also considered the certificate of completion form a rehabilitation program. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, drug usage, and multiple periods of UA, which resulted in four NJPs and two court-martial convictions. Further, the Board noted that your misconduct continued even after you were recommended for a general discharge and the BCD had been suspended for a year, thus giving you an opportunity to receive a better discharge. 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.

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