



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

TJR
Docket No: 4465-01
30 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 Naval Records, sitting in executive session, considered your application on 27 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 15 June 1973 at the age of 17. Your record reflects that you served for nearly a year without disciplinary incident, but on 1 April 1974 you received nonjudicial punishment (NJP) disrespect, failure to obey a lawful order, and resisting arrest. The punishment imposed was a \$50 forfeiture of pay and restriction and extra duty for seven days. On 15 July 1974 you received NJP for absence from your appointed place of duty and were awarded restriction for seven days. During the period from 18 June 1975 to 28 December 1976 you received NJP on three occasions for two periods of absence from your appointed place of duty.

Your record further reflects that on 27 September 1977 you were convicted by summary court-martial (SCM) of larceny and sentenced to a \$100 forfeiture of pay and a reprimand. On 2 March 1978 you received your sixth NJP for disobedience. The punishment imposed was a \$100 forfeiture of pay and restriction and extra duty for 14 days. On 23 June 1978 you were convicted by general court-

martial (GCM) of two periods of unauthorized absence (UA) totalling 29 days, two specifications of assault, simple assault, and disobedience. You were sentenced to confinement at hard labor for 21 months, forfeiture of all pay and allowances, reduction to paygrade E-1, and a dishonorable discharge (DD). Forfeitures and allowances were suspended for 12 months.

Your record also reflects that during the period from 18 November 1978 to 6 January 1979, after escaping from confinement, you were in a UA status for 49 days. During this period you were also declared a deserter. However, the record does not indicate if any disciplinary action was taken as a result of this misconduct.

On 24 April 1981 you were convicted by special court-martial (SPCM) of four specifications of failure to go to your appointed place of duty, two specifications of failure to obey a lawful order, possession of marijuana, and possession of lysergic acid diethylamide (LSD). You were sentenced to confinement at hard labor for four months, a \$1,332 forfeiture of pay, and reduction to paygrade E-1. On 26 August 1981 you began a 13 days period of UA that was not terminated until 10 September 1981. The record does not indicate if any disciplinary action was taken for this period of UA.

Subsequently, the DD was approved at all levels of review and on 26 February 1982 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you experienced prejudice treatment throughout your enlistment. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive misconduct, which resulted in six NJPs and three court-martial convictions. Further, there is no evidence in the record, and you submitted none, to support your contention of prejudice treatment. 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