



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

ELP
Docket No. 5835-01
7 December 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 4 December 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 11 January 1983 for four years at age 19. The record reflects that you were advanced to SA (E-2) and served for nearly 10 months without incident. However, during the 13 month period from November 1983 to December 1984 you received five nonjudicial punishments (NJP). Your offenses consisted of stealing personal property, two periods of unauthorized absence (UA) totaling about 22 hours, two instances of disobedience, missing ship's movement, and wrongful appropriation of a dress uniform belonging to another Sailor. After your second NJP, you were formally counseled regarding your misconduct and warned that failure to take corrective action could result in administrative separation under other than honorable conditions.

On 21 December 1984 you were notified that separation action was being initiated by reason of misconduct due to a pattern of misconduct. You were advised of your procedural rights and that

if the discharge was approved, it could be under other than honorable conditions. You declined to consult with legal counsel or submit a statement in your own behalf, 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. The Chief of Naval Personnel approved the recommendation and you were so discharged on 16 January 1985.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, low test scores, and the fact that it has been nearly 17 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of the discharge given your record of five NJPs. The Board noted the aggravating factor that you waived your 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 convincing argument in support of your application. The Board concluded that you were guilty of too much misconduct in only 23 months of service to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded 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