



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

ELP
Docket No. 5971-01
26 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 18 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 9 October 1975 for four years at age 17. The record reflects that you were advanced to FA (E-2) and served 12 months without incident. However, during the 23 month period from October 1976 to September 1978, you received three nonjudicial punishments (NJP). Your offenses consisted of four periods of unauthorized absence (UA) totalling about 35 days, possession of marijuana, and two instances of failure to obey a lawful order, and breaking arrest. During this period, your electrician's mate striker designation was removed for incompetence.

In November 1978, you then began a series of UAs from 18 November 1978 to 20 February 1979, 3 March to 17 July 1979, 15-17 September 1979. While awaiting trial by court-martial for these periods of UA you received a fourth NJP for missing restricted men's muster on five occasions.

On 5 October 1979 you were convicted by special court-martial of the foregoing three periods of UA totalling 219 days. You were sentenced to confinement at hard labor for four months, forfeitures of \$279 per month for four months, reduction in rate to SR, and a bad conduct discharge. The Navy Court of Military Review affirmed the findings and sentence on 28 April 1980 and you received the bad conduct discharge on 23 March 1981.

The Naval Discharge Review Board (NDRB) denied your request for recharacterization of your discharge on 4 September 1985.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, the issues you presented to the NDRB, and the fact that it has been more than 20 years since you were discharged. The Board noted your contentions that you were court-martialed on your 21st birthday to make an example out of you, the discharge was unjust, and that your pay record was lost from 1978 to 1979. However, the Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of four NJPs and a special court-martial conviction. Your lost time due to UA and military confinement totalled 358 days. You have provided no evidence to support your claim that your pay record was lost or what relevance it had to your misconduct. Your conviction and discharge were accomplished in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. The Board thus 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