



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

ELP
Docket No. 6032-01
11 January 2002

[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 9 January 2002. 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.

The Board found that you enlisted in the Navy on 28 June 1982 for four years at age 21. The record reflects that you were advanced to BTFA (E-2) and served without incident until 25 February 1983, when you were convicted by special court-martial of communicating a threat and assault. You were sentenced to confinement at hard labor for five months and forfeitures of \$250 per month for five months. On 8 April 1983 the convening authority approved the sentence but suspended the confinement and forfeitures in excess of four months for a period of 12 months. You were released from confinement on 4 June 1983.

During the 16 month period from September 1983 to January 1985 you received four nonjudicial punishments (NJP). Your offenses consisted of three unspecified periods of unauthorized absence (UA), four instances of absence from your unit or appointed place of duty, drunk on duty, and use of a controlled substance.

During this period, you were also convicted by civil authorities of impeding the flow of traffic and disorderly conduct, and fined \$10 for each offense.

On 16 April 1985 you were convicted by a second special court-martial of nine specifications of failure to obey a lawful regulation by loaning money at an interest rate greater than 18 percent, and communicating a threat. You were sentenced to confinement at hard labor for 45 days, forfeitures of \$150 per month for six months, and reduction in rate to BTFR (E-1). You were released from confinement on 23 May 1985 and served without further incident until 1 July 1985 when you received your fifth NJP for dereliction in the performance of your duties and a brief period of UA.

On 10 July 1985 you were notified that action was being initiated to administratively discharge you under other than honorable conditions by reason of misconduct due to commission of a serious offense and a pattern of misconduct. You were advised of your procedural rights and after consulting with legal counsel waived the right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge under other than honorable conditions. On 22 August 1985, the Commander, Naval Military Personnel Command directed discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. You were so discharged on 5 September 1985.

In its review of your application the Board conducted a careful search of your records for any mitigating factors which might warrant a recharacterization of your discharge under other than honorable conditions. However, no justification for such a change could be found. The Board noted the letters of reference and your contention that everyone was loaning money. However, the Board concluded the letters of reference and contention were insufficient to warrant recharacterization of your discharge given your record of five NJPs, a civil conviction, and the two special courts-martial convictions. You demonstrated, through your continued misconduct, a willful disregard for military discipline and authority. The Board also noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. 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