



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

ELP
Docket No. 6967-01
17 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 12 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 March 1975 for four years at age 17. The record reflects that you extended your enlistment for a period of 12 months on 1 August 1975 to accept advancement to TM3 (E-4). You were then advanced to TM2 (E-5) in November 1976 and served without incident until 8 June 1978, when you were convicted by special court-martial of two periods of unauthorized absence (UA) totaling about 53 days and missing movement. You were sentenced to confinement at hard labor for two months, forfeitures of \$265 per month for two months, and a reduction in rate to TMSN (E-3). On 21 June 1978 the convening authority approved the sentence but mitigated the reduction in rate to TM3 (E-4).

On 1 November 1978 you received nonjudicial punishment (NJP) for two periods of UA totaling about 56 days. Punishment imposed was a forfeiture of \$250 per month for two months and reduction in rate to SN.

On 21 January 1980 you were convicted by a second special court-martial of four periods of UA from 2-8 November 1978, 9-13 November 1978, 14 November to 12 June 1979, and 5-9 October 1979, a total period of about 220 days. You were sentenced to confinement at hard labor for two months, forfeitures of \$250 per month for two months, reduction in rate to SR (E-1), and a bad conduct discharge. On 12 March 1980 the convening authority approved the sentence but reduced the confinement at hard labor to 45 days, and suspended the forfeitures in excess of \$224 per month for two months.

The record reflects that you were also UA from 31 August to 4 September 1979, 29 September to 1 October 1979, and 20-22 October 1979 for which no disciplinary action is shown in the record.

The Navy Court of Military Review affirmed the findings and the sentence of the second special court-martial on 30 June 1980, and you received the bad conduct discharge on 5 December 1980.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, good post-service conduct, the letters of reference attesting to your good character, and the fact that it has been nearly 21 years since you were discharged. The Board noted your brother's letter to the effect that when your father died, you wanted to be discharged in order to run your father business, but discharge was denied due to your rank and position on board ship, and going UA was your only recourse. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of an NJP and two convictions by special courts-martial. Your lost time due UA and military confinement totalled about 436 days. The Board well understands the impact the death of a parent has on a Sailor, especially if he is the oldest child. However, you have provided no evidence as to what assistance you sought through the chain of command or of any circumstance which justified the four periods of UA totaling more than seven months. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. 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