



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

TJR
Docket No: 3590-02
2 December 2002

[REDACTED]

[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 26 November 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 9 March 1972 at the age of 17. On 21 August 1972 you were warned after a four day period of unauthorized absence (UA). On 26 September 1972 you received nonjudicial punishment (NJP) for disobedience and two periods of absence from your appointed place of duty. The punishment imposed was restriction for 12 days and a \$40 forfeiture of pay. On 6 and 14 December 1972 you received NJP for attempted larceny, communicating a threat, disobedience, and disrespect.

During the period from 29 January to 6 February 1973 you were UA for a period of eight days. However, the record does not reflect that any disciplinary action was taken for this period of UA. On 17 May 1973 you were convicted by special court-martial (SPCM) of assault by menacing and assault. You were sentenced to a \$800 forfeiture of pay, confinement at hard labor for four months and a bad conduct discharge (BCD). On 18 July 1973 you submitted a written request for restoration to duty which stated, in part, as follows:

I request suspension of the discharge and restoration to duty on probation.... I believe that I can become more helpful in the service than out on my own with a BCD.... I understand the result of a suspension of the BCD and can control the negative attitude in me.... I would be more than grateful to go back to duty and prove that a man can change.

However, correctional officials noted that you had been a disciplinary problem in confinement, were not motivated, and had a bad attitude. Accordingly, your request for restoration was denied. On 5 October 1973 you received NJP for disrespect and failure to obey a lawful order. The punishment imposed was reduction to paygrade E-1 and correctional custody for 10 days.

The BCD was subsequently approved at all levels of review and the discharge authority ordered its execution. Accordingly, you were discharged on 23 January 1975.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you believe your discharge should have been under honorable conditions and that you now need your discharge upgraded so that you may receive medical benefits. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant a change in the characterization of your discharge given your record of four NJPs and a SPCM for numerous offenses in a relatively brief period of 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