



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

WMP
Docket No: 5057-02
19 December 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the 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 17 December 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 14 May 1981 for four years after about two months of prior active service. Your record shows that you served without incident until 14 December 1981, when you received nonjudicial punishment (NJP) for false official statement. The punishment imposed was a reduction in rate.

On 25 March 1982 you received NJP for a four day period of unauthorized absence, from 17 to 21 March 1982. The punishment imposed was 15 days of correctional custody.

On 28 June 1982, you were convicted by a special court-martial of 36 days of unauthorized absence, from 28 April to 3 June 1982. You were sentenced to confinement at hard labor for 75 days and forfeitures of \$334 per month for two months. On 5

August 1982, the convening authority approved the adjudged sentence except for confinement in excess of 60 days, which was suspended for a period of six months.

On 3 November 1982 you received NJP for a one day period of authorized absence on 31 October 1982. The punishment imposed was forfeitures of \$286 per month for two months and 45 days of restriction and extra duty. On 24 November 1982, you again received NJP for failure to go to your appointed place of duty and breaking restriction. The punishment imposed was a forfeiture of \$382 and 30 days of restriction and extra duty.

On 9 February 1983, you were convicted by a special court-martial of failure to go to your appointed place of duty and two periods of unauthorized absence, totaling 36 days. You were sentenced to 75 days of confinement and forfeitures of \$382 per month for two months. On 9 February 1983, the convening authority approved the adjudged sentence and ordered its execution.

On 20 May 1983, you received NJP for a four day period of unauthorized absence, from 7 to 11 March 1983. The punishment imposed was 15 days of restriction and extra duty.

On 31 October 1983 you were convicted by a special court-martial of two periods of unauthorized absence, totaling 99 days. You were sentenced to confinement at hard labor for three months, forfeitures of \$382 per month for three months, and a bad conduct discharge. On 31 October 1983, the convening authority approved the adjudged sentence except for confinement in excess of 60 days, which was suspended for a period of six months. On 8 April 1987, upon completion of appellate review, you received the bad conduct discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth, immaturity and the fact that it has been over 15 years since your discharge. However, the Board concluded that your conviction of two periods of unauthorized absence totaling 99 days warranted severe punishment, which the court-martial correctly imposed. Additionally, the Board noted that you had two prior court-martial convictions and five NJP's, most of which were related to other unauthorized absences totaling 81

days. The Board thus concluded that the bad conduct discharge was appropriate and should not be changed. 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