



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

TJR
Docket No: 5791-01
31 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 Naval Records, sitting in executive session, considered your application on 23 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 7 March 1975 at the age of 17. Your record reflects that on 7 October 1975 you were convicted by civil authorities of first degree arson and sentenced to confinement for five years. On 28 January 1976 you were convicted by civil authorities of unauthorized use of a vehicle and were sentenced to confinement for five years. This sentence was to run concurrently with your prior conviction.

On 13 August 1976, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 22 September 1976 you waived your right to an ADB in lieu of a recommendation for a general discharge. However, your commanding officer recommended you be separated with an undesirable discharge by reason of misconduct due to civil conviction. On 3 November 1976 the discharge authority directed a general discharge by reason of misconduct due to frequent involvement of a discreditable nature with civilian authorities, and on 22 November 1976 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you served your country honorably. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct in the civilian community. Further, the Board noted that individuals separated by reason of misconduct are normally discharged under other than honorable conditions and concluded that you were fortunate to receive a general discharge. Given all the circumstances of your case, the Board concluded your discharge was proper as issued 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