



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

TJR
Docket No: 5868-01
11 February 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 5 February 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 16 November 1964 at the age of 19. Your record reflects that on 3 June and again on 4 August 1965 you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totalling three days and missing the movement of your ship. On 31 January and 15 June 1966 you received NJP for two specifications of assault and a three day period of UA.

Your record further reflects that on 15 June 1967 you were convicted by special court-martial (SPCM) of five periods of UA totalling 18 days, absence from your appointed place of duty, five specifications of breaking restriction, and missing the movement of your ship. You were sentenced to a \$344 forfeiture of pay, confinement at hard labor for four months, and reduction to paygrade E-1. On 23 October 1967 you received NJP for a six day period of UA and were awarded a \$137 forfeiture of pay.

On 11 March 1968 you were convicted by SPCM of two periods of UA totalling 49 days and two periods of absence from your appointed place of duty. You were sentenced to confinement at hard labor

for six months, a \$54 forfeiture of pay, and a bad conduct discharge (BCD). The BCD was suspended for the period of confinement, plus six months.

On 29 May 1968 you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. At that time you waived your rights to consult with legal counsel, present your case to an administrative discharge board, and to submit a statement in rebuttal to the discharge. On 4 June 1968 your commanding officer recommended an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. However, on 17 August 1968 you began a 112 day period of UA that was not terminated until 8 December 1968. As a result of this action, on 21 January 1969, the suspended BCD was vacated and discharge directed. Subsequently, on 7 February 1969, you received the BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, post service conduct, and your contention that you were not aware of the overall affect of a BCD. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in five NJPs and two court-martial convictions. The Board further noted that your misconduct continued after the BCD was suspended and you were given an opportunity to earn a better 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