



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

TJR
Docket No: 7893-02
24 April 2003

[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 22 April 2003. 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 20 September 1974 at age 19. On 22 May 1975 you received nonjudicial punishment (NJP) for two specifications of disobedience, making a false official statement, and absence from your appointed place of duty. The punishment imposed was correctional custody for 30 day, a forfeiture of pay, and reduction to paygrade E-1, which was suspended for three months. On 4 August 1975 you received NJP for two periods of absence from your appointed place of duty, two specifications of disobedience, and disrespect. The punishment imposed was correctional custody for 20 days. The suspended reduction awarded at the 22 May 1975 NJP was also vacated at this time. On 26 September and again on 13 October 1975 you received NJP for two periods of absence from your appointed place of duty and disobedience.

On 27 November 1975 you were notified of pending administrative separation action by reason of convenience of the government due to substandard performance. After consulting with legal counsel you waived your right to present your case to an administrative

discharge board and to submitted a statement of rebuttal to the separation. On 28 November 1975 your commanding officer recommended separation by reason of convenience of the government due to substandard performance. Subsequently, the discharge authority approved this recommendation your commanding officer was directed to issue you a general discharge by reason of convenience of the government due to substandard performance, and on 17 December 1975 you were so discharged.

At the time of your separation character of service was based, in part, on conduct and overall trait averages which were computed from marks assigned during periodic evaluations. Your conduct and overall traits averages were 1.9 and 2.0, respectively. Averages of 3.0 and 2.7 were required at the time of your separation for a fully honorable characterization of service.

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 racial discrimination. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in four NJPs and failure to attain the required conduct and overall trait averages. The Board noted that there is no evidence in your record, and you submitted none, to support your contention of racial discrimination. Further, no discharge is automatically upgraded due to the passage of time and/or an individual's good behavior after discharge. 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