



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

JRE
Docket No. 02716-07
18 April 2008

Dear [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 10 April 2008. 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 15 July 1982. On 25 August 1983, you received nonjudicial punishment for a twenty-two day period of unauthorized absence, and missing movement through design. On 21 March 1984, you were convicted by special court-martial of a sixty-one day period of unauthorized absence. Your commanding officer recommended that you be discharged by reason of misconduct-commission of a serious offense, i.e., the sixty-one day period of unauthorized absence, notwithstanding the fact that the special court-martial did not adjudge a bad conduct discharge. The recommendation for

discharge was received by the Commander, Navy Military Personnel Command, on 1 May 1984. You underwent a pre-separation physical examination on 7 May 1984 and were found physically qualified for separation. On 5 July 1984, the Secretary of the Navy personally approved the recommendation of the Chief of Naval Personnel that you be discharged by reason of misconduct-~~commission of a serious offense, with a discharge under other~~ than honorable conditions. You were so discharged on 16 July 1984.

The Board concluded that your misconduct was not significantly extenuated or mitigated by the fact that you suffered from seasickness. Although seasickness may render a service member unsuitable for service, it is not considered to be a disability under the laws administered by the Department of the Navy. There is no indication in the available records that you suffered from a condition which rendered you unfit for duty by reason of physical disability at the time of your discharge. You would not have been entitled to disability separation or retirement in any event, because your discharge by reason of misconduct would have taken precedence over disability evaluation processing. 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