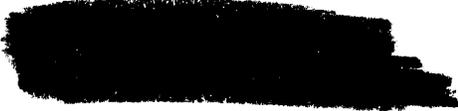




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 1920-01
11 June 2001



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 May 2001. 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 Naval Reserve on 11 November 1984 after more than three years of prior active service. You then served without incident as a reservist until 16 July 1998, when civil authorities charged you with receiving stolen government property, receiving stolen property, and petty theft.

Based on an agreement with civil authorities which provided that the charges would be dropped if you resigned from the Naval Reserve, the commanding officer then initiated action to administratively separate you with a general discharge by reason of misconduct due to commission of a serious offense. You then elected to waive your right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and you were discharged with a general discharge on 27 May 1999. At this time you were not recommended for reenlistment. On 15 June 1999 the civil authorities dismissed all charges based on your agreed termination from the Naval Reserve.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your contention that the charges were dismissed since you were not guilty. However, the Board concluded that these factors were not sufficient to warrant your reinstatement, given your negotiated agreement with the civil authorities. In this regard, the Board substantially concurred with the comments in the commanding officer's letter of 8 April 2001, a copy of which is attached. Based on the foregoing, the Board concluded that no change to the discharge 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



DEPARTMENT OF THE NAVY
NAVAL AND MARINE CORPS RESERVE CENTER
6337 BALBOA BOULEVARD
ENCINO, CALIFORNIA 91316-1584

5800
Ser NO/306
8 Apr 01

From: Commanding Officer, Naval and Marine Corps Reserve
Center Encino, California
To: Chairman, Board for Correction of Naval Records
Subj: REQUEST FOR ADMINISTRATIVE DISCHARGE DOCUMENTATION IN THE
CASE OF [REDACTED]

Ref: (a) Board for Correction of Naval Records ltr
Docket No. 01920-01 of 15 Mar 01
(b) NCIS Case Control 15 JUL 98--LACK-0084-6SNA
(c) PHONCON NMCRC Encino [REDACTED]/NCIS NAWC China Lake
Field Office [REDACTED] of 21 Mar 01
(d) Naval Military Personnel Manual
(e) PHONCON NMCRC Encino [REDACTED]/Kern County District
Attorney's Office [REDACTED] 23 Mar 01
(f) Manual For Courts-Martial United States
(1998 Edition)

Encl: (1) Administrative Separation Procedure Notice -
Notification Procedure, Letter of Notification and
Statement of Awareness, ICO [REDACTED] dtd
16 Mar 99
(2) NAVMARCORESCEN ENCINO CA ltr 5801 Ser NO/117 of
8 Apr 99
(3) NAVMARCORESCEN ENCINO CA Legal Officer ltr of
23 Apr 99
(4) NAVMARCORESCEN ENCINO CA ltr 5800 Ser NO/141 of
10 May 99
(5) NAVRESREDCOM REG NINETEEN ltr 5800 Ser N00B/650 of
26 May 99
(6) NAVPERS 1070/615 (INACTIVE) (Rev. 5-81)
(7) NAVPERS 1070/613 (Rev. 10-81)
(8) NAVMARCORESCEN ENCINO CA ltr 1910 Ser NO/152 of
8 Jun 99

1. In response to reference (a), enclosures (1) through (8) are forwarded. It should be noted that the notation, "By direction" was inadvertently left off under the signature block of enclosure (2).

2. Reference (b), the Naval Criminal Investigation Service (NCIS) investigation case file, and principle evidence used to support the separation action, was not retained at this command following the separation action at the request of the NCIS

APR 17 2001

Subj: REQUEST FOR ADMINISTRATIVE DISCHARGE DOCUMENTATION IN THE
CASE OF [REDACTED]

According to the Special Agent, Subject was willing to "get out" of the Naval Reserve in exchange for the dismissal of civilian criminal charges against her. These negotiations would explain Subject's waiving of her right to an Administrative Board and counsel with regard to the Administrative Separation procedure (enclosure (1)), thus expediting the separation process. These circumstances were confirmed during reference (e), in which Kern County Deputy District Attorney [REDACTED] described the following notes from Subject's civilian criminal court docket file:

April 6, 1999: "Case continued awaiting confirmation of separation."

June 2, 1999: "NCIS notified District Attorney separation complete."

June 15, 1999: "Charges dismissed per agreement."

b. The timing of Subject's request to the Board would also appear to raise doubts regarding the sincerity of the request. If, as according to Subject, she had "dedicated much time and energy into the efforts of crcss-rating from AK to EO" in February 1999, and was supposedly cleared of all charges in June 1999, why did she wait nearly two years to request Board review? While many explanations may sound plausible, I believe the timing may be deliberate in view of the Navy's active duty assignment policy of two to three years per duty station. After two years, many, if not all, of the Full Time Support staff at Naval and Marine Corps Reserve Center Encino directly involved in Subject's separation likely would no longer be aboard the command. This would diminish the command's "institutional memory" of Subject's separation action, reducing the Naval Reserve's ability to fully respond to Subject's accusations of injustice.

5. If we can be of any further assistance regarding this matter, please contact my Admin Officer, [REDACTED] or me at (818) 344-5101.

[REDACTED]