



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

TJR
Docket No: 4748-01
19 December 2001

[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 11 December 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Naval Reserve on 22 January 1979 at the age of 18 and subsequently began a period of extended active duty. Your record reflects that you served for a year and six months without disciplinary incident but on 31 July 1980 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and failure to obey a lawful order. The punishment imposed was restriction and extra duty for 20 days and a \$250 forfeiture of pay, which was suspended for six months. On 25 August 1980 you received NJP for absence from your appointed place of duty and were awarded bread and water for three days.

During the period from 5 September to 20 November 1981 you received NJP on three occasions for three specifications of failure to go to your appointed place of duty, two specifications of failure to obey a lawful order, absence from your appointed place of duty, and sleeping on watch.

Your record further reflects that on 9 January 1982 you were convicted by summary court-martial (SCM) of 109 specifications of

absence from your appointed place of duty. You were sentenced to confinement at hard labor for 30 days, a \$300 forfeiture of pay, reduction to paygrade E-2, and restriction for 60 days.

Also on 9 January 1982, you were notified of pending administrative separation action by reason of misconduct 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 15 January 1982 your commanding officer recommended you be administratively separated by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 28 January 1982 an enlisted performance board in the Bureau of Naval Personnel recommended an other than honorable discharge by reason of misconduct. However, the record reflects that on or about 25 February 1982, you were released from active duty and transferred to the Naval Reserve under honorable conditions. Subsequently, on 1 March 1982, the Chief of Naval Personnel directed an other than honorable discharge by reason of misconduct. On 15 February 1985, at the expiration of your obligated service, you were issued a general discharge certificate the Naval Reserve Personnel Center.

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 your discharge was to be upgraded six months after your separation. However, the Board concluded these factors and contention were not sufficient to warrant a change in the characterization of your service because of your repetitive misconduct which resulted in six NJPs and a court-martial conviction. Further, the Board noted that you were released from active duty under honorable conditions and received a general discharge even though you were being administratively processed for an other than honorable discharge and such a characterization of service was subsequently approved by the discharge authority. Accordingly, the Board concluded that a change in the characterization of your release from active duty and/or discharge is not warranted. Also, no discharge is automatically upgraded due to the passage of time. 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