



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

JRE
Docket No: 4800-00
13 July 2001

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 21 June 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 did not accept your contention to the effect that the acts of misconduct which resulted in your reduction to grade E-3 and discharge for the good of the service in lieu of trial by court-martial were attributable to the effects of an undiagnosed medical condition; that you were suffering from symptoms of diabetes mellitus, and that your condition was misdiagnosed by Navy medical personnel as a spinal disc condition; and that you did not undergo a pre-separation physical examination. It also rejected your unsubstantiated contention to the effect that you were advised by a former Speaker of the House of Representatives on 6 February 1992 to go to his office in Washington D.C., and that you "checked in" with him the following day.

The Board noted that an entry in your dental record indicates you underwent a flight physical examination on 15 October 1991. Although the report of the examination cannot be located, there is no indication in available records that any significant abnormal findings were made at that time. You absented yourself without authority on 1 December 1991, missed the movement of your ship, the USS America, and remained absent until 4 December 1991.

Thereafter, you refused to execute travel orders to report to the America, which was deployed, and you absented yourself without authority on 6 February 1992. As you had indicated that you would not return to the America, and you had removed all of your personal belongings therefrom, you were classified as a deserter. You remained absent in desertion until 30 March 1992. You underwent a pre-separation physical and dental examinations on 12 June 1992, and completed a Report of Medical History and a dental health questionnaire on that date. You denied a history of any of the hallmark symptoms of diabetes mellitus, and you did not report symptoms of mental confusion. You disclosed, pertinently, that you had "L-5, S-1 disc trouble under civilian treatment"; that you had been treated at a civilian hospital and Portsmouth Naval Hospital for a back problem; and that you had consulted a civilian orthopedic surgeon and a civilian neurosurgeon. You also indicated that your back had been treated by a doctor of osteopathy, and that you had no then current problem with your back. You were found physically qualified for separation on 12 June 1992., and were discharged from the Navy under other than honorable conditions on 19 June 1992.

The Board noted that you were properly reduced to grade E-3 upon the approval of your request for discharge, as required by governing directives. It concluded that in view of the serious nature of your misconduct, your service was appropriately characterized with a discharge under other than honorable conditions. In addition, it noted that you avoided significant jeopardy by requesting discharge in lieu of trial by court-martial, to include a Federal conviction, punitive discharge, confinement at hard labor, forfeiture of pay and allowances, and reduction to grade E-1. The Board carefully considered the matters submitted in support of your application concerning your overall record of service, and post service good character and accomplishments, but found those matters insufficient warrant the upgrade of your discharge. The opinions expressed by your former military superiors were of no probative value to the Board, because those opinions were based, in large part, on your unsubstantiated assertion that your misconduct was related to an undiagnosed illness, which, as noted above, was rejected by the Board.

In view of the foregoing, 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