



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

ELP  
Docket No. 6786-01  
14 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 Navy Records, sitting in executive session, considered your application on 12 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 29 April 1968 for six years as a BT3 (E-4). At the time of your reenlistment, you had completed more than two years of prior active service.

The record reflects that you were authorized the Vietnam Service Medal for service on board the USS MEREDITH (DD 890). You served without incident until 12 February 1970, when you received nonjudicial punishment (NJP) for a 24 hour period of UA. However, on 1 June 1970 you were advanced to BT2 (E-5).

On 20 April 1971 you were convicted by special court-martial of seven periods of unauthorized absence (UA) totaling about 125 days. You were sentenced to confinement at hard labor for 75 days, forfeitures of \$150 per month for three months, and reduction in rate to BTSN (E-3).

The record further reflects that you were UA again from 24 May to 8 July, and from 9 July to 6 September 1971. On 8 October 1971 you requested for discharge in lieu of trial by court-martial for those two periods of UA totaling about 113 days. Prior to

submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. A staff judge advocate reviewed the request and found it to be sufficient in law and fact. On 20 October 1971 the discharge authority approved the request and directed an undesirable discharge. You were so discharged on 29 October 1971.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your limited education, prior honorable service, Vietnam service, letters of reference, and the fact that it has been more than 30 years since you were discharged. However, the Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of an NJP, a special court-martial conviction, and the fact that you accepted discharge rather than face trial by court-martial for a UA of more than three months. The Board noted your lost time due to UA and military confinement totalled 300 days. The Board believed that considerable clemency was extended when your request for discharge was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted, and you should not be permitted to change it now. The Board concluded that you were guilty of too much UA to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded the discharge was proper and no change 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