



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

ELP
Docket No. 6908-01
7 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 4 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.

The Board found that you enlisted in the Navy on 3 May 1978 for four years at age 17. The record reflects that you were advanced to SA (E-2) and served for more than seven months without incident. However, during the seven month period from December 1978 to July 1979, you received nonjudicial punishment (NJP) on six occasions. Your offenses consisted of altering a prescription, 67 instances of absence from restricted mens' muster, 16 instances of failure to go to your appointed place of duty, two instances of failure to obey a lawful order, two brief periods of UA totalling about two hours, and three periods of UA totalling about 14 days.

In August 1979 you began a series of five UAs from 31 August to 18 October, 21-25 October, 31 October 1979 to 29 December 1980, 14 January 1981 to 3 February, and 17-27 February 1981.

On 27 March 1981 you were convicted by special court-martial of three of the foregoing periods of UA from 31 August to 18 October, 21-25 October, and 31 October 1979 to 29 December 1980; totaling about 491 days. You were sentenced to confinement at hard labor for two months, forfeitures of \$330 per month for two months, reduction in rate to SR (E-2), and a bad conduct discharge. You were placed on appellate leave on 26 May 1981 and received the bad conduct discharge on 28 May 1981.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, letters of reference, and the fact that it has been 20 years since you were discharged. The Board noted your explanation of the circumstances which led to your discharge, the certificate showing you completed an alcohol and drug treatment program in 1999, and your contention that you were told that the discharge could be recharacterized if you successfully completed such a program. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of six NJPs and a special court-martial conviction of more than a year of UA. Your lost time due to UA totalled 521 days. The Board concluded that you were guilty of too much UA to warrant recharacterization to honorable or under honorable conditions. The fact that you have completed an alcohol rehabilitation program is commendable but does not provide a valid basis for recharacterizing service. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. 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