



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

ELP  
Docket No. 2305-02  
12 April 2002



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 10 April 2002. 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 2 April 1986 for four years at age 18. The record reflects that on 2 June 1986 the Recruit Training Center (RTC) advised the Commander, Naval Military Personnel Command (CNMPC), that you had failed to fully disclose your prior involvement with civil authorities. This involvement included two months in a divisional youth program for a burglary and one year of unsupervised probation for a charge of accessory to stealing gasoline. The commanding officer opined that further processing for discharge was not in the best interest of the naval service, and stated that you were being transferred to your next duty station upon completion of recruit training. However, on 1 July 1986, CNMPC directed separation processing by reason of fraudulent enlistment.

You reported for duty on board the USS DETROIT on 10 September 1986 and were subsequently advanced to SA (E-2). On 25 December 1986, CNMPC requested the status of the separation processing

directed on 1 July 1986. The CO of the DETROIT responded that when you reported on board the RTC letter of 2 June 1986 was noted in your service record, but the ship was unaware of NMPC's directive to process you for separation. The CO noted that you had been on unauthorized absence (UA) since 18 December 1986.

On 28 January 1987 you received nonjudicial punishment (NJP) for three periods of UA totaling about 23 days, from 18 December 1976 to 4 January 1987, 11-12 January and 19-25 January 1987; absence from your appointed place of duty; missing movement; and disobedience. Punishment imposed consisted of a reduction in rate to SR (E-1), forfeitures of \$350 per month for two months, and 45 days or restriction and extra duty. On the same day, CNMPC directed that you be processed for separation by reason of defective enlistment due to fraudulent entry and misconduct as appropriate.

On 11 February 1987 you were notified that administrative separation action was being initiated by reason of misconduct due to commission of a serious offense and fraudulent entry. You were advised of your procedural rights and that if discharge was approved, it could be under other than honorable conditions. You declined to consult with legal counsel and waived your right to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge under other than honorable conditions. On 25 February 1987, CNMPC directed discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. You were so discharged on 3 March 1987.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 15 years since you were discharged. The Board noted the educational completion certificates, the college transcript, your pursuit of a career in law enforcement, and the letters of reference. The Board also noted your contention that you cannot be commissioned a police officer with an other than honorable discharge, that during your youth you began running away from an abusive home and getting into trouble, and during this time the police officers you dealt with became very positive role models. The Board concluded that foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your fraudulent enlistment and the NJP for three UAs totaling 23 days, missing movement, and disobedience. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The fact that you desire to be a police officer and have passed all the qualifications for such employment does not provide a valid basis for recharacterizing your service. The

Board concluded that 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