



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

BJG
Docket No: 4313-02
3 October 2002

GMM [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Petty Officer [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 26 September 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. In addition, the Board considered the advisory opinion furnished by the Office of the Judge Advocate General, dated 8 July 2002, and a memorandum for the record (MFR), dated 25 September 2002, copies of which are attached.

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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion, as amended in accordance with the MFR, except they did not agree that the Commanding Officer (CO), USS MERRILL letter of 28 June 1993, enclosure (2) to your application, suggested an attempt to set aside the contested nonjudicial punishment. This letter merely stated that you had been erroneously charged with a violation of Article 84, Uniform Code of Military Justice; that you had been found not guilty of this charge; and that the forfeiture of \$275.00 per month for two months, the only punishment you were awarded, should not have been taken out of your pay account. They agreed with the advisory opinion in concluding that the evidence you provided, including the CO, USS MERRILL letter, failed to establish that you were not found to have committed any of the offenses charged. Accordingly, they were unable to find that the forfeiture was invalid. They were likewise unable to find what, if any, correction was warranted to reflect accurately the specific misconduct you were found to have committed. In view of the above, 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

Enclosures