



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

TJR
Docket No: 6853-00
28 February 2001

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 Naval Records, sitting in executive session, considered your application on 27 February 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you reenlisted in the Navy on 25 April 1990 after six years of prior honorable service. Your record reflects that you continued to serve without disciplinary infraction until 7 January 1993 when you received nonjudicial punishment (NJP) for disrespect, two specifications of wrongful and willful indecent assault on a individual of the same sex, and drunk and disorderly conduct. The punishment imposed was a \$1,260 forfeiture of pay, extra duty and restriction for 45 days, and a reduction to paygrade E-4. The forfeitures were suspended for two months.

Subsequently, on 20 January 1993, you were notified of pending administrative separation action by reason of misconduct due to commission of serious offense and alcohol rehabilitation failure. At that time you waived your right to consult with legal counsel but elected to present your case to an administrative discharge board (ADB). On 9 March 1993 an ADB found you committed offenses warranting separation and recommended an other than honorable discharge. On 17 March 1993 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to the commission of a serious offense. On 15

March 1993 you began a 35 day period of unauthorized absence (UA). On 12 April 1993 the discharge authority approved this recommendation and directed an other than honorable discharge and an administrative reduction to paygrade E-3. On 19 April 1993, while in an UA status, you were so discharged and reduced in rate.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, character reference letters, good post service conduct, and the hearing transcript from the Department of Veterans' Affairs. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your misconduct. Further, you were properly reduced to paygrade E-4 at the NJP, and the reduction to E-3 was also proper given the direction of the discharge authority. Given all the circumstances of your case, the Board concluded your discharge was proper as issued 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