



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

TJR
Docket No: 7803-01
15 May 2002

[REDACTED]

[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 14 May 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 22 August 1977 at the age of 18. Your record reflects that on 13 May 1978 you received nonjudicial punishment (NJP) for nine periods of absence from your appointed place of duty and failure to obey a lawful order. The punishment imposed was confinement on bread and water for two days. On 21 August and again on 15 December 1978 you received NJP for nine periods of absence from your appointed place of duty.

During the period from 1 February to 22 September 1979 you received NJP on three occasions for five periods of absence from your appointed place of duty, dereliction in the performance of your duties, and disrespect. On 9 November 1979 you were convicted by summary court-martial (SCM) of two periods of unauthorized absence (UA) totalling 26 days and were sentenced to confinement at hard labor for 30 days. Approximately a month later, on 8 December 1979, you received NJP for absence from your appointed place of duty and drinking beer while being escorted to confinement. The punishment imposed was confinement on bread and water for three day, which was suspended for six months, a \$150 forfeiture of pay, and a reduction to paygrade E-1.

On 5 December 1979 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. You did, however, submit the following statement requesting an immediate discharge:

In my behalf, I am writing this statement towards being administratively processed out of the United States Navy.

I have now been in the Navy for more than 2 years and so far I haven't past the paygrade of E-2 nor has any of my evaluations been past 2.8 average more than a couple of times.

I very seldom get along with a lot of my leading petty officers or division officers.

I feel it would do the Navy and myself a great deal of good to have me removed from the military.

On 25 February 1980 you received your eighth NJP for dereliction in the performance of your duties and sleeping on watch. The punishment imposed was restriction and extra duty for 20 days.

Subsequently, on 13 March 1980, your commanding officer recommended an other than honorable discharge by reason of misconduct due to frequent involvement of a discreditable nature with military or civilian authorities. On 31 May 1980 the discharge authority directed an other than honorable discharge by reason of misconduct. On 16 June 1980 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contentions that you were falsely charged and treated as a scapegoat. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive misconduct, which resulted in eight NJPs and a court-martial conviction. Furthermore, there is no evidence in the record, and you submitted none, to support your contentions of false charges or mistreatment. 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