



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

WMP

Docket No: 5345-02
23 January 2003

[REDACTED]

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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 15 January 2003. 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 Naval Reserve on 3 November 1978 and immediately commenced a 36 month period of active duty at age 17. Your record shows that you served without incident until you received nonjudicial punishment (NJP) for larceny. The punishment imposed was forfeitures of \$209 per month for two months, six days of restriction, and five days of extra duty.

Your record further shows that you were an unauthorized absentee (UA) from 21 June to 10 July 1979, a period of 19 days. Even though you were charged lost time for this period of UA it appears that no disciplinary action was taken.

On 29 July 1980 you were convicted by a special court-martial of two periods of unauthorized absence totaling 131 days, from 31

January to 26 March 1980 and 28 April to 14 July 1980; and breaking restriction. You were sentenced to confinement at hard labor for two months, forfeitures of \$250 per month for two months, a reduction in rate, and a bad conduct discharge. On 14 October 1980, the convening authority approved the adjudged sentence. While awaiting review of your adjudged bad conduct discharge, you again began a period of unauthorized absence on 20 October 1980 and remained absent until 25 January 1981, a period of 95 days.

On 18 February 1981, you were found to be drug dependent. Your records indicate that you had previously used numerous different types of drugs, including heroin and amphetamines, which you were injecting with the use of needles.

On 17 September 1981 you were convicted by a special court-martial of two instances of failure to go to your appointed place of duty, failure to obey a lawful order, disrespectful in language towards a senior petty officer, breaking restriction, and three instances of UA totaling 189 days, from 20 October 1980 to 25 January 1981, 10 to 30 April 1981, and 7 June to 1 September 1981. You were sentenced to confinement at hard labor for 90 days, and forfeitures of \$334 per month for three months. On 2 December 1981, the convening authority reduced the sentence to confinement at hard labor to no more than 45 days.

On 8 April 1982, upon completion of appellate review, you received the bad conduct discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth, immaturity and your current medical condition. However, the Board concluded that your conviction by court-martial for two periods of unauthorized absence totaling 131 days, coupled with your prior NJP record for larceny and an additional 19 day period of unauthorized absence, clearly warranted severe punishment. Additionally, even though your record indicates that you were drug dependent, that fact would not excuse your repeated periods of unauthorized absence or other misconduct committed during your enlistment. 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