



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

TJR
Docket No: 2379-02
9 October 2002

[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 8 October 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 14 March 1980 at the age of 20. On 9 January 1981 you received nonjudicial punishment (NJP) for assault and were awarded a \$100 forfeiture of pay and a suspended reduction to paygrade E-1. On 19 March 1981 you received NJP for absence from your appointed place of duty and were awarded restriction for three days, extra duty for 15 days, and a \$100 forfeiture of pay. The foregoing suspended reduction in paygrade was also vacated at this time. On 14 May and again on 18 June 1981 you received NJP for being in an area with controlled substances, disobedience, and communicating a threat.

On 28 September 1981 you were convicted by special court-martial (SPCM) of failure to go to your appointed place of duty, two specifications of disrespect, disobedience, three specifications of failure to obey a lawful order, two specifications of resisting arrest, four specifications of assault, and two specifications of communicating a threat. You were sentenced to confinement at hard labor for three months, a \$900 forfeiture of pay, and a bad conduct discharge (BCD), which was suspended for three months.

During the period from 15 September to 13 December 1982 you were in a unauthorized absence (UA) status on two occasions for a total of 76 days. On 25 February 1983 you were convicted by SPCM of this period of UA as well as two specifications of missing the movement of your ship, three specifications of disobedience, and assault. You were sentenced to confinement at hard labor for five months, reduction to paygrade E-1, a \$1,000 forfeiture of pay, and a BCD. The BCD was subsequently approved at all levels of review, and on 30 May 1984 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 contention that the discharge was based solely on a practical joke. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in six disciplinary actions. The Board also noted that you were sentenced to a BCD at an earlier court-martial but it was suspended, thus giving you the opportunity to earn a better characterization of service. However, you failed to do so and committed further offenses. 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