



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

CRS
Docket No: 7635-01
28 February 2002

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 6 February 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 9 March 1989 at age 26. The record reflects that you received two nonjudicial punishments. The offenses included an unauthorized absence of 17 days and failure to obey a lawful order on two occasions. Subsequently, you were convicted by civil authorities of driving to the left of the center line, unlawful flight, driving while intoxicated, speeding in excess of 100 miles per hour, vehicular assault, and criminal impersonation. The court sentenced you to a year in jail, which was suspended, and a \$1,000 fine.

A special court-martial convened on 21 February 1990 and you were found guilty of an unauthorized absence of 58 days and breaking restriction. The court sentenced you to confinement at hard labor for four months, forfeiture of \$482 per month for four months, and a bad conduct discharge. You received the bad conduct discharge on 3 April 1992.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as the contention, in effect, that your special court-martial was improper and should be reviewed. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the fact that your unauthorized absences totalled more than two months, and you had two prior disciplinary actions and a civil conviction. In this regard, the Board is prohibited by law from reviewing the findings of a court-martial and must restrict its review to determine if the sentence of the court-martial should be reduced as a matter of clemency. Based on the foregoing, the Board concluded that no change to the discharge 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