



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

TRG  
Docket No: 4527-98  
18 August 1999

[REDACTED]

Dear [REDACTED]

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 17 August 1999. 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 3 January 1973 at age 20. The records shows that in 1973 you received nonjudicial punishment on three occasions for an unauthorized absence of about three days, two absences from your appointed place of duty and dereliction of duty. On 8 December 1973 you began a period of unauthorized absence which lasted until you were apprehended on 29 June 1976, a period of about 921 days. On 30 August 1976 you received another nonjudicial punishment for two instances of disobedience.

The documentation to support the discharge processing is not in your record. However, on 16 February 1972, you acknowledged that you were not recommended for reenlistment due to your discharge for the good of the service. Therefore, the Board assumed that you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for the 921 day period of unauthorized absence. Regulations required that prior to submitting such a request, you confer with a qualified military lawyer and be advised of your rights and warned of the probable adverse consequences of accepting such a discharge. The Board found that when your request was granted you were spared the stigma of a court-martial conviction and the potential penalties

of a punitive discharge and confinement at hard labor. The record shows that you were discharged under other than honorable conditions on 30 August 1976.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education and low score on the aptitude test. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of misconduct and especially your request for discharge to avoid trial for a lengthy period of unauthorized absence. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain when your request for discharge was granted and you should not be permitted to change it now. The Board concluded that 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