



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

ELP
Docket No. 567-02
24 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 Navy Records, sitting in executive session, considered your application on 22 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 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 29 June 1981 for four years at age 17. The record reflects that you served without incident until 27 November 1981 when you received nonjudicial punishment (NJP) for possession of marijuana. Thereafter, you served the next 24 months without further incident and were advanced to petty officer third class. However, during the three month period for December 1983 to February 1984 you were received two more NJPs for offenses which consisted of a four-hour period of unauthorized absence (UA), dereliction of duty, a 30-day period of UA, missing movement, and breaking restriction.

You had a one-day period of UA on from 9-10 March 1984 for which no disciplinary action was taken, but the absence was administratively charged as lost time.

On 3 April 1984 you were notified that separation action was being initiated by reason of misconduct due to commission of a serious offense. You were advised of your procedural rights and that if discharge was approved, it could be under other than honorable conditions. You declined to consult with legal counsel and waived the right to present your case to an administrative

discharge board (ADB). Thereafter, the commanding officer recommended discharge under other than honorable conditions. On 13 April 1984 Commander Naval Military Personnel Command directed discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense. You were so discharged on 25 April 1984.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, your statement and resume of post-service employment, and the fact that it has been more than 18 years since you were discharged. The Board also noted your contentions that you came from a dysfunctional, alcoholic family, and that you developed a drinking problem which subsequently resulted in disciplinary problems which led to your discharge. You stated that you needed rehabilitation but it was never offered. Rehabilitation is required when an individual is diagnosed as being alcohol dependent. There is no evidence in available records that you were so diagnosed. Furthermore, alcohol dependence does not excuse misconduct. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs, two of which were for the serious offenses of drug use, missing movement, and a 30-day period of UA. The Board noted the aggravating factor that you waived the right to an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board concluded that the discharge was proper 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