



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

ELP  
Docket No. 2741-99  
3 September 1999

[REDACTED]

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 1 September 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 19 November 1973 for four years at age 17. The record reflects that you were advanced to SA (E-2) and served for 28 months without incident. However, during the three month period from February to May 1976 you received two nonjudicial punishments (NJP) and were convicted by a summary court-martial. Your offenses consisted of five periods of unauthorized absence (UA) totalling about 173 days and three instances of failure to obey a lawful order.

On 21 May 1976 you were reported UA and remained absent until you surrendered to military authorities on 12 November 1976. No disciplinary action for this 175 day period of UA is shown in the record. You were reported UA again on 2 December 1976 and remained absent until you were apprehended by civil authorities on 22 June 1982 and released to the military police. You went UA the following day and remained absent until you were apprehended by civil authorities on 9 November 1982.

On 17 December 1982, you were convicted by special court-martial of two periods of UA totalling nearly seven years, from

2 December 1976 to 22 June 1978 and 23 June 1978 to 1 October 1982. You were sentenced to confinement at hard labor for 90 days and a bad conduct discharge. You were released from confinement on 1 March 1983 and placed on appellate leave. The Navy Court of Military Review affirmed the findings and the sentence on 31 March 1983. You received the bad conduct discharge on 20 December 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 15 years since you were discharged. The Board noted your contention that your infant daughter and mother were "on the street" and you had to find housing for them. The Board concluded that these factors and contention were insufficient to warrant recharacterization of your discharge given your record of two NJPS, and convictions by a summary court-martial and a special court-martial. The Board noted the aggravating factor that your last two periods of UA were terminated only by your apprehension. Your lost time due to UA totalled nearly eight years. The Board is sympathetic to individuals who have family problems, and noted that assistance is available at all commands in helping individuals resolve such problems. You have provided no evidence that you sought assistance through your chain of command for your family problems. Further, you have failed to provide any evidence of any circumstance that would have justified nearly seven years of UA or prevented you from returning to military jurisdiction. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. 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