



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3850-99

24 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 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 21 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 Naval Reserve on 23 August 1982 at age 21 and reported for active duty on 24 September 1982. The record shows that you received nonjudicial punishment on two occasions and were convicted by a summary court-martial. Your offenses were three instances of disrespect and failure to go to your appointed place of duty. The record also shows that after the second nonjudicial punishment and before the offenses which were referred to the summary court-martial, you were counseled and warned that further misconduct could lead to a discharge under other than honorable conditions.

Based on the foregoing record of misconduct you were processed for an administrative discharge by reason of misconduct. On 20 September 1984, you agreed to waive your right to request an administrative discharge board (ADB) in exchange for a recommendation for a general discharge. On 9 November 1984, the discharge authority disapproved the commanding officer's recommendation for a general discharge and directed that you be reprocessed for an administrative discharge. An ADB met on 27 November 1984 and found that you had committed misconduct and recommended a discharge under other than honorable conditions.

Subsequently, the discharge authority approved the recommendation of the ADB and directed that you be discharged for misconduct with a discharge under other than honorable conditions. You were so discharged on 15 February 1985.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, the documentation you submitted showing that you have been a good citizen for many years, and your contention that the discharge was too harsh when the minor nature of your offenses is considered. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your multiple instances of disrespect. In reaching its decision, the Board particularly noted that you were warned that further misconduct could lead to a discharge under other than honorable conditions, but you continued to be disrespectful. The Board believed that this pattern of offenses was indicative of willful misconduct. The Board concluded that the 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