



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

TJR
Docket No: 3023-01
19 October 2001

[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 16 October 2001. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Naval Reserve on 4 November 1981 at the age of 18 and began a three-year period of extended active duty. Your record reflects that on 30 and 31 August 1982 you were in an unauthorized absence (UA) status for which no disciplinary action was taken.

Your record further reflects that on 2 July 1984 you began an 88 day period of UA that was not terminated until 27 September 1984. On 12 October 1984 civil authorities issued a warrant for your arrest for felony child abuse, corporal injury to a child, and oral copulation of a victim under the age of 14. On 16 October 1984 you were delivered to civil authorities in accordance with the aforementioned warrant. The following day you posted bail and were returned to military control. On 31 October 1984 you received nonjudicial punishment (NJP) for the 88 day period of UA and missing the movement of your ship. The punishment imposed was a \$400 forfeiture of pay, restriction and extra duty for 45 days, and reduction to paygrade E-2.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your rights to consult with legal counsel, present your case to an administrative discharge board, and to submit a statement in rebuttal to the discharge. On 1 November 1984 your commanding officer recommended you be discharged under other than honorable conditions by reason of misconduct due to commission of a serious offense as evidenced by the 31 October 1984 NJP. The recommendation noted, in part, as follows:

(Member) is being processed for commission of a serious military offense. His involvement with civilian authorities has just recently been brought to my attention and it was felt that the long drawn out procedures of the judicial system would continue past his EAOS of 1 February 1985. He is not in civil confinement and as his military offense of unauthorized absence for 88 days would also warrant an other than honorable discharge, I have decided to process him immediately. He is an administrative and disciplinary burden to his last command.

On 14 November 1984 the discharge authority approved the commanding officer's recommendation and directed an other than honorable discharge by reason of misconduct. On 28 November 1984 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, the fact that you completed most of your active duty obligation, and your good post service conduct. The Board also considered and your contentions that your ability to serve was impaired and your misconduct in the civilian and military communities was for isolated and minor offenses. However, the Board noted that you submitted no evidence in support of these contentions, and the record contains no such evidence. The Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded 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