



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

TJR
Docket No: 3084-01
26 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 23 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 30 April 1979 at the age of 20. Your record reflects that on 17 December 1979 you received nonjudicial punishment (NJP) for possession of marijuana and attempting to defraud the government. The punishment imposed was a \$224 forfeiture of pay.

On 5 November 1980 and again on 16 and 18 February 1981 you were in an unauthorized absence (UA) status for three days. However, the record does not reflect what, if any, disciplinary action taken for this offense.

Your record further reflects that on 25 February 1981 you were convicted by special court-martial (SPCM) of a 206 day period of UA. You were sentenced to confinement at hard labor for 45 days, forfeitures totalling \$500, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and on 4 February 1982 you received the BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your contention that you were told that your discharge would be automatically upgraded five years after your separation. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your drug usage and lengthy period of UA, which resulted in NJP and a court-martial conviction. Further, no discharge is upgraded due solely to the passage of time. Given 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