



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

CRS
Docket No: 5874-01
6 December 2001

[REDACTED] 5248
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 5 December 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 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 9 August 1976 at age 17. The record reflects that you received four nonjudicial punishments. The offenses included unauthorized absences totalling four days, absence from your appointed place of duty, failure to obey a lawful order on four occasions, and possession of marijuana.

A special court-martial convened on 11 October 1979 and you were found guilty of an unauthorized absence of 393 days. The court sentenced you to confinement at hard labor for 60 days, forfeitures of \$50 per month for two months, and a bad conduct discharge. You received the bad conduct discharge on 24 February 1981.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the contention that you were told that the discharge would be upgraded after five years. However, the Board concluded that these factors were not sufficient to warrant recharacterization

of your discharge due to the fact that your unauthorized absences totalled over a year. Based on the foregoing, the Board concluded that no change to the discharge is warranted. In this regard, no law or military regulation provides for upgrading a discharge based solely on the passage of time. 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