



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

CRS
Docket No: 5881-01
13 December 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 12 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 were commissioned as an ensign in the Naval Reserve on 25 May 1995 at age 21. You reported to active duty on 13 August 1995. The record reflects that on 7 May 1996 you received nonjudicial punishment for fraternizing with an enlisted man in your command from January to April 1996. The punishment imposed consisted of a forfeiture of one-half of one month's pay. In forwarding your case to the Bureau of Naval Personnel, your commanding officer recommended against separation action.

Nevertheless, on 30 July 1996 the Chief of Naval Personnel initiated separation action. On 19 September 1996 you requested resignation in lieu of further separation processing. The Chief of Naval Personnel then recommended to the Secretary of the Navy that your request be approved, and that you be honorably discharged by reason of misconduct due to commission of a serious offense. On 4 November 1996, acting for the Secretary, the Assistant Secretary for Manpower and Reserve Affairs approved your resignation and directed discharge. Accordingly, you were

honorably discharged by reason of misconduct on 20 December 1996. You did not receive a reenlistment code since officers do not receive one.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as the circumstances surrounding your offense, the favorable recommendation of your command, and the fact that you have married the individual with whom you fraternized. The Board also noted your desire to improve your career opportunities. However, the Board concluded that these factors were not sufficient to warrant removal of the nonjudicial punishment or a change in the reason for discharge. Concerning your request for the removal of the 7 May 1996 nonjudicial punishment, the Board noted your contentions. However, you have submitted no evidence, and record contains none, to indicate that punishment was improper or inappropriate. In this regard, it is clear that you committed the offense as alleged. Accordingly, your commanding officer did not abuse his discretion in imposing the nonjudicial punishment, and it was not unjust. Likewise, the reason for separation was proper and appropriate since you resigned in lieu of further separation for substantiated misconduct.

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