



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

CRS
Docket No: 7872-00
21 June 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 20 June 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. In addition, the Board considered the comments of the legal officer of your ship, a copy of which is attached.

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 reenlisted in the Navy on 19 February 1998 after more than 15 years of prior active service. Your record reflects that you received nonjudicial punishment (NJP) sometime between March and September 1999 for insubordinate conduct towards a non-commissioned officer and failure to obey a lawful order. The punishment imposed is not contained in the records.

The Board noted your contentions but found them insufficient to warrant the removal of the NJP. In this regard, the Board believed the comments of the legal officer of the ship. The Board presumed that the commanding officer acted reasonably in concluding that you committed the foregoing offenses, and noted that he was in the best position to resolve the factual issues and impose the appropriate amount of punishment.

The Board also noted your performance of duties prior to and

subsequent to the NJP, but found that it was insufficient to warrant the deletion of established misconduct from your record. In this regard, the Board concluded that such action would be unfair to your peers against whom you will compete for promotions and assignments.

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

Enclosure

15 May, 2001

To Whom It May Concern,

I am [REDACTED] Legal Officer, USS WASP (LHD-1) and was the initial investigating officer for the complaints lodged by [REDACTED]. An extensive investigation, which included conversations with all involved found little merit to PH2 S [REDACTED]'s claims.

Alas, I sweep my files every 2 years so I do not have the original charge sheets, but the charges involved the fact that he had closed his workcenter early after being repeatedly told not to. Both the Division Officer ([REDACTED]) and the [REDACTED] stated that they personally told PH2 S [REDACTED] not to secure the workcenter without notifying one of them. Even the Department Head ([REDACTED]) supported the statements, saying that PH2 S [REDACTED] behavior had been brought to his notice and that he put out a firm policy that workcenters were not to be unilaterally secured by LPOs without informing at least a chief. When taken to CO's mast, [REDACTED] was described, by witnesses, as being belligerent and he was assigned punishment.

In interviews with [REDACTED], he tried repeatedly to bring up the fact that he had contracted tuberculosis. While this is unfortunate, it had no bearing on his disobedience of a direct order.

In many hours of investigating this complaint, I could find absolutely no reason why the mast should be vacated. Indeed due to previous counseling sheets, that I personally viewed, it would seem that if anything the mast was overdue.


Very Respectfully[REDACTED]
LCDR USN