



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

TJR
Docket No: 1439-02
15 August 2002

[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 13 August 2002. 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.

You reenlisted in the Navy on 31 December 1981 after three years of prior honorable service. You continued to serve for two years and two months without disciplinary incident, but on 11 February 1984 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and were awarded a \$200 forfeiture of pay and a suspended reduction to paygrade E-4.

On 13 March 1984 you were convicted by summary court-martial (SCM) of assault and resisting arrest. You were sentenced to reduction to paygrade E-4. On 18 December 1985 you were convicted by special court-martial (SPCM) of a 157 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for 45 days, reduction to paygrade E-1, a \$400 forfeiture of pay, and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review, and on 13 January 1985 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, prior honorable service, post service conduct, and your contention that the court did not consider that at the time of your UA you had to care for your homeless and mentally ill mother. The Board also considered the decision of the Social Security Administration, Office of Hearings and Appeals. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your serious and repetitive misconduct which resulted in an NJP and two court-martial convictions. 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