



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

JRE
Docket No: 1501-00
4 April 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 29 March 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 on 18 March 1999, you were notified of your commanding officer's intention to initiate administrative separation proceedings against you based on your a pattern of misconduct, as reflected by multiple violations of the UCMJ, for which you received nonjudicial punishment on 4 December 1997, 7 January 1999 and 18 March 1999. On 24 March 1999, after being advised of your rights in connection with the discharge process, you waived your right to consult with counsel and to appear before an administrative discharge board. You were discharged by reason of misconduct on 5 April 1999, with a discharge under honorable conditions.

The Board noted that a discharge by reason of misconduct takes precedence over and, absent extraordinary circumstances, precludes disability evaluation processing. In addition, it noted that you were previously evaluated by the PEB and found fit for duty, and that you were found physically qualified for separation on 1 April 1999, when you underwent your pre-separation physical examination.

The Board rejected your contentions to the effect that you resumed drinking alcoholic beverages because you were erroneously directed to stop taking your antidepressant medication, and that your command decided to "get rid of" you for misconduct because they were precluded from separating you for alcohol rehabilitation failure. In this regard, it noted that you had a limited period of successful recovery following your completion of an in-patient rehabilitation program, and that you gradually relapsed into alcohol abuse beginning several years before you were discharged from the Navy. According to a health record entry dated 11 December 1998, you had a relapse in November 1998 in reaction to notification of your mother's hospitalization. The physician who evaluated on 11 December 1998 recommended that you be started on a command monitored Antabuse program, and processed for administrative separation due to your return to abusive drinking. As you complained of side-effects you thought were related to your medications, he decreased the dosage of one medication and advised you to discontinue it entirely in one week, and directed an incremental decrease in the dosage of a second medication. On 27 January 1999, the Director, Consolidated Substance Abuse Counseling Center, formally advised your commanding officer that the aforementioned recommendation for your discharge. It appears that your commander rejected that recommendation, and initiated misconduct separation proceedings instead, because you committed violations of UCMJ Articles 86, 92 and 134 on 16 February 1999, and received nonjudicial punishment for those offenses on 18 March 1999.

As you have not demonstrated that your discharge for misconduct was erroneous or unjust, and that you were unfit by reason of physical disability, the Board was unable to recommend any corrective action in your case. 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