



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

TRG
Docket No: 5578-01
8 December 2002

[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 4 December 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. In addition, the Board considered the input on your case provided by your commanding officer, a copy of which is enclosed. The Board also considered the rebuttals to the command input.

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.

You enlisted in the Navy on 7 July 1999 at age 33. You satisfactorily completed initial training and on 14 December 1999 you reported to your first duty station. During the period 12 May to 1 September 2000 you were placed on report on three occasions for three specification of insubordination and disrespect, two specification of disobedience, and missing movement of your unit through neglect. However, nonjudicial punishment (NJP) was never held on those charges.

Based on the foregoing record, you were processed for a general discharge by reason of commission of a serious offense. In connection with this processing, you elected to exercise your procedural rights. On 27 November 2000, your commanding officer recommended a general discharge by reason of misconduct stating, in part, as follows:

.... (He) has shown little capacity for assimilation into the naval service. Despite this command's best efforts to counsel and educate him on proper military

behavior and responsibilities, he has demonstrated a repeated problem with authority by being disrespectful and insubordinate with members of his chain of command. He has also demonstrated a problem with following the lawful orders of his superiors. the burden he places on this command far outweighs his value added.

On 4 January 2001 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a general discharge. You were so discharged on 5 January 2001.

In response to a request from the Board, your commanding officer recommended that your request to be reinstated on active duty be denied and stated that you have been provided a DD Form 214 and other documentation concerning your discharge. The command also provided copies of statements made by your superiors which resulted in your placement on report, and a nine page chronological summary of the evidence. The chronology indicates that your equal opportunity complaint was found to be unsubstantiated.

In your rebuttal to the commanding officer's recommendation you have provided your version of events and contend that the command was pressuring members to make false statements, and falsifying documents. Your counsel points out that you never received any disciplinary actions for your alleged misconduct and contends that it was therefore improper to discharge you for commission of a serious offense. He also argues that you should not have been charged with failing to provide a valid childcare certificate and missing movement. In support of this contention, you have submitted a childcare certificate, dated 22 May 2000, which designated a neighbor to care for your children. You also allege that you were sent on temporary additional duty (TAD) when the squadron deployed and should not have been charged with missing movement. It was noted that you performed well during the TAD assignment.

There are statements in the record showing that you were insubordinate and disrespectful on multiple occasions. In addition, there is no evidence that you provided an updated valid childcare certificate in July 2002 as directed by the commanding officer. According to the chronology, you submitted a leave request on 14 July 2002 for the purpose of finding someone to care for your children during deployment because your father would not be available during the entire period. You subsequently disobeyed an order to provide a certificate prior to the deployment. Because the command did not know who would care for your children, you were sent TAD during the deployment. Whether or not you should have been charged with missing movement is irrelevant because you were never received disciplinary action

for that offense and the remaining offenses were sufficient to support discharge processing due to commission of a serious offense. Finally, the Board noted that the imposition of NJP was delayed because of your equal opportunity complaint and the fact that the squadron was on deployment. Upon the completion of deployment it was decided to process you for administrative separation. The Board concluded that you were insubordinate, disrespectful and disobedient and were properly discharged.

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



DEPARTMENT OF THE NAVY
ELECTRONIC ATTACK SQUADRON ONE FOUR TWO
FPO AP 96601-6426

IN REPLY REFER TO:
5530
Ser 010/382
14 Aug 01

From: [REDACTED]
To: Chairman, Board of Correction of Naval Records

Subject: REQUEST FOR ADMINISTRATIVE DISCHARGE DOCUMENTATION IN THE CASE OF
[REDACTED]

Re: [REDACTED] AEG:JDH Docket No:5579-01 of 01 Aug 01

Encl: (1) Package of all information relating to Administrative Separation
ICO [REDACTED]

1. In response to reference (a), enclosure (1) is provided.
2. [REDACTED] was provided access to all documents in enclosure (1), prior to his General Discharge (Under Honorable Conditions) with a RE-4 Code. Review of the documents will show that he refused to sign all required forms and refused to accept a copy of all documents pertaining to his release from active duty.
3. After [REDACTED] release from active duty, he has filed numerous complaints to every organization in our chain of command claiming the documents were withheld from him. Most recently, our command provided a copy of his DD-214 and administrative separation notification letter to the Commander, Naval Air Forces, U.S. Pacific, Legal Office. His claim again, was that they were never provided. The COMNAVAIRPAC Legal Office informed us that [REDACTED] was provided the copies we sent.
4. I am very concerned that on his application for correction of military record he claims his present paygrade is E-4/PN3 and that he is in a reserve status. He was released from active duty on 05 January 2001 as an E-3 with an evaluation submitted noting significant problems and not recommended for advancement or retention. He also received a RE-4 Code which does not entitle him to join the reserves or any other branch of service without special permission from Chief of Naval Personnel.
5. The documentation provided supports that he was given every opportunity to review everything pertaining to his release from active duty. This command is willing to provide any other documentation necessary and can provide personnel willing to make formal statements regarding this issue.

[REDACTED]

AUG 17 2001



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

TRG:jdh
Docket No: 5578-01
11 December 2002

[REDACTED]

[REDACTED]

This is in reference to your interest, as counsel, in the case of
[REDACTED]

Enclosed is a letter addressed to [REDACTED] informing him that his application has been denied. It is requested that you transmit the denial letter to him, a copy of which is enclosed for your records.

It is regretted that a more favorable reply cannot be made.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures