



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

JRE
Docket No: 8095-02
18 November 2002

[REDACTED]

[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 31 October 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 25 November 1980. You were convicted by special court-martial on 14 November 1981 of assault and wrongfully using provoking language, and were sentenced to be confined at hard labor for 20 days, to forfeit \$360.00 pay per month for one month, reduction to grade E-1, and a bad conduct discharge. You underwent a pre-separation physical examination on 11 January 1982, and were found to be physically qualified for separation. You were separated from the service with a bad conduct discharge on 21 April 1983, upon completion of the appellate review of your conviction and sentence.

The Board noted that a discharge pursuant to the sentence of a court-martial takes precedence over disability evaluation. Accordingly, and as there is no indication in the available records that you were unfit for duty by reason of physical disability, the Board was unable to recommend that your request for disability retirement or separation be granted. It concluded that given the serious nature of the offenses of which you were convicted by special court-martial, and the nonjudicial punishment you received on 10 March 1980 for wrongful

possession of marijuana, your service was properly characterized by a bad conduct discharge.

In view of the foregoing, 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