



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

CRS

Docket No: 3747-98

3 September 1999

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 25 August 1999. 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 9 February 1946 at age 17. Your record reflects that you received two nonjudicial punishments. The offenses included an unauthorized absence of a day; absence from your appointed place of duty; and possession of three identification cards, one of which had a false date of birth. Subsequently, on 29 October 1947 you were convicted by civil authorities of assault with force to do great bodily harm. You were sentenced to confinement for six months.

On 21 November 1947 the commanding officer recommended that you be separated with an undesirable discharge by reason of misconduct based on the civil conviction. After review by the discharge authority, the recommendation was approved and you were separated with an undesirable discharge on 30 December 1947.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity, limited education and the contention that you were wrongfully arrested. However, the Board concluded that these

factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of the offense. Additionally, you have provided no evidence to support the contention that you were wrongfully arrested and, even if you had such evidence, it would be more appropriate to present it to the civil authorities. Therefore, the Board concluded that no change to the discharge is warranted. 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