



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

ELP
Docket No. 2531-01
15 October 2001

[REDACTED]

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 Navy Records, sitting in executive session, considered your application on 11 October 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.

You enlisted in the Marine Corps on 2 January 1957 for four years at age 17. The record reflects that you were advanced to PFC (E-2) and served for eight months without incident. However, during the 12 month period from September 1957 to September 1958, you received three nonjudicial punishments and were convicted by a summary court-martial. Your offenses consisted of four periods of unauthorized absence (UA) totaling about eight days and having an unauthorized liberty card in your possession. During this period, you were also convicted by civil authorities of attempted car theft and placed on probation for a period of 12 months.

On 2 February 1959 you were convicted by special court-martial of a 29 day period of UA, from 16 December 1958 to 14 January 1959. You were sentenced to confinement at hard labor for two months and forfeitures of \$35 per month for two months.

On 24 February 1959 the commanding officer recommended that you be discharged by reason of misconduct due to the frequency of your UAs and the conviction by civil authorities of an offense involving moral turpitude. You were advised of your procedural rights but declined to submit a statement in your own behalf. On 27 March 1959 you appeared before an administrative discharge board (ADB). At that time, you stated that you did not want to be discharged as undesirable, and your troubles resulted from marital problems. The ADB recommended separation by reason of misconduct. The discharge authority approved the recommendation and directed an undesirable discharge. You were so discharged on 8 April 1959 by reason of misconduct due to civil conviction.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, your explanation of the circumstances which led to your discharge, your wife's statement, the letters of reference, and the fact that it has been more than 42 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of three NJPs, convictions by a summary court-martial and a special court-martial, and a civil conviction of an offense involving moral turpitude. The Board concluded that you were guilty of too much misconduct in 27 months of service to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded that the discharge was proper and no change 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