



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

TRG
Docket No: 1711-02
14 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 13 November 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.

You enlisted in the Marine Corps on 11 August 1953 at age 18. During 1954, you received nonjudicial punishment on three occasions for three periods of unauthorized absence totaling about three and a half days. A general court-martial convened on 30 March 1955 and convicted you of two periods of unauthorized absence totaling about 111 days. The court sentenced you to confinement at hard labor for 18 months, forfeiture of all pay and allowances and a bad conduct discharge. On 24 December 1955 you were restored to duty on six months probation. You then served without any further disciplinary problems until you were released from active duty on 10 August 1956 with your service characterized as being under honorable conditions. You were subsequently issued a general discharge at the end of your military obligation.

In 1981, this Board noted your general court-martial conviction and failure to achieve the required average mark in conduct and denied your request for recharacterization of your service to honorable. You are now requesting that unspecified periods of unauthorized absence be removed from your record because of your

good service after you were restored to duty on probation and the passage of time since the offenses were committed.

There is no provision in the law or regulations that would require the removal of periods of unauthorized absence based solely on the passage of a period of time. Additionally, the Board is prohibited by law from reviewing court-martial convictions, and the court-martial record showing your conviction of unauthorized absence must remain in the record. The Board thus concluded that your record properly documents your periods of unauthorized absence and removing periods of unauthorized absence from the record is not 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