



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

TJR
Docket No: 3530-02
6 November 2002

[REDACTED]

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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 5 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Marine Corps on 21 August 1953 after three years of prior honorable service. On 7 December 1953 and again on 8 January 1954 you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty and failure to go to your appointed place of duty. On 19 February 1954 you were convicted by special court-martial (SPCM) of a seven day period of unauthorized absence (UA) and absence from your appointed place of duty. You were sentenced to confinement at hard labor for a month and a \$60 forfeiture of pay. On 27 April and 19 October 1954 you received NJP for absence from your appointed place of duty and failure to obey a lawful order. On 16 November 1954 and again on 21 July 1955 you were convicted by summary court-martial (SCM) of two periods of UA totalling 18 days.

During the period from 1 to 13 March 1956 you were convicted by civil authorities of failure to appear, and convicted by SCM of a two day period of UA. On 21 March 1956 you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with

military and civilian authorities. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 6 April 1956 you were convicted by civil authorities of driving without a license, running a stop sign, and failure to appear, and were sentenced to pay a fine. On 13 April 1956 an ADB recommended you be issued an undesirable discharge. Subsequently, your commanding officer recommended you be issued an undesirable discharge by reason of misconduct due to repeated offenses and civil convictions. The discharge authority directed an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military and civilian authorities, and on 11 May 1956 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and prior honorable service, including service in Korea during which you received the Purple Heart. It also considered your contentions that your undesirable discharge deprives you of all benefits, psychological problems as a result of combat fatigue impaired your ability to service, and your only problems while serving in the Marine Corps were related to four minor periods of UA. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct in both the military and civilian communities. Accordingly, your application has been denied.

The Board noted the 1960 memorandum from the Veterans Administration to the effect that you are ineligible for veterans benefits. However, the Board believes that under current regulations, you may now be eligible for such benefits. You should contact the nearest office of the Department of Veterans Affairs (DVA) concerning your right to reapply for benefits or appeal the earlier unfavorable determination. If DVA continues to deny benefits, you may apply to this Board for reconsideration.

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