



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

WMP

Docket No: 4749-02

23 December 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 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 17 December 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 19 August 1940 at age 17. At that time, you had completed 11 years of education and attained test scores which placed you in Mental Group IV.

You served without incident until 10 March 1941, when you were convicted by a deck court (DC) of disrespect to a senior petty officer. The punishment imposed was a forfeiture of \$20.

Your record further reflects that on 6 October 1941 you were convicted by a summary court-martial (SCM) of disobeying a lawful order. You were sentenced to a reduction in rate. On 24 November 1941 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty, losing your liberty card, and being out of uniform. The punishment imposed was confinement for three days with bread and water.

On 4 May 1942, you were convicted by a SCM of creating a disturbance, and being in possession of and damaging another individual's automobile. You were sentenced to confinement for 15 days with bread and water and a forfeiture of \$162. The convening authority reduced the adjudged punishment to confinement for 15 days with bread and water. On 9 July 1942 you received NJP for failure to go to your appointed place of duty. The punishment imposed was confinement for five days with bread and water.

On 4 February 1943, you received NJP for manufacturing and selling liberty passes and disrespect to a commissioned officer. The punishment imposed was confinement for five days with bread and water.

On 15 March 1943 you were convicted by a SCM of a 22 day period of unauthorized absence, from 21 February to 15 March 1943. You were sentenced to a bad conduct discharge (BCD). On 5 April 1943, you again received NJP for disobeying a lawful order and disrespect to a chief petty officer. The punishment imposed was confinement for five days with bread and water. On 24 April 1943, after the findings and sentence were approved by the Board of Review, you received the BCD.

Your record further shows that you were inducted into the Navy on 4 April 1944 and served without incident until you were honorably discharged by reason of convenience of the government on 2 September 1945.

On 16 May 1947, the Naval Discharge Review Board (NDRB) considered your case and concluded that your BCD was entirely appropriate in view of the conviction for 22 days of unauthorized absence and your overall record of service which includes prior convictions by a DC, and two SCM's, and four NJP's.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth, immaturity, limited education, low test scores, and your honorable period of service after the bad conduct discharge. However, the Board concluded that your conviction for numerous instances of wartime misconduct clearly warranted the BCD imposed by the court-martial. In this regard, the Board also was aware of the prior misconduct including convictions by a DC, and two SCM's and four NJP convictions. The Board noted your honorable service after your bad conduct discharge, but did not

find that service sufficient to warrant recharacterization of your earlier enlistment. 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