



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

WMP
Docket No: 4848-02
15 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 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 14 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.

The Board found that you enlisted in the Navy on 28 April 1954 at age 17. The record reflects that you served without incident until you were convicted by a summary court martial of unauthorized absence from 21 August to 4 September 1954, a period of 15 days. You were sentenced to 30 days of confinement at hard labor and a forfeiture of \$30.

On 10 January 1957 you admitted to using marijuana between March 1955 to January 1957 and, as a result of this admission, you received nonjudicial punishment (NJP) for use of marijuana on 26 April 1957. The punishment imposed was reduction to paygrade E-2.

On 6 May 1957, you were informed that you were recommended for an undesirable discharge by reason of unfitness. You were advised of and waived all your procedural rights and made the statement that, "I do want a discharge for reasons of unfitness."

On 13 May 1957 your undesirable discharge action was forwarded to the Chief of Naval Personnel (CNP). On 5 July 1957 you were convicted by summary court martial of a false official statement and a traffic violation. The punishment imposed was 12 days of confinement at hard labor and a forfeiture of \$20. On 9 July 1957, the convening authority approved the adjudged sentence and ordered its execution.

On 31 July 1957 CNP directed a general discharge for unsuitability instead of an undesirable discharge by reason of unfitness due to a lack of corroboration concerning marijuana use, and the reluctance to characterize your service with the type of discharge that might later be considered as a punishment. Accordingly, you were so discharged on 13 August 1957.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity. However, the Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of two summary courts martial and one NJP and your in-service use of marijuana. Furthermore, the Board concluded that you were fortunate to receive a general discharge due to unsuitability given the fact that CNP was not aware of your 5 July 1957 conviction at a summary court martial prior to directing a general discharge. The possibility exists that if this additional misconduct had been known by CNP, you may very well have been awarded an undesirable discharge due to unfitness. 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