



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

TJR
Docket No: 7004-02
29 April 2003

[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 Naval Records, sitting in executive session, considered your application on 29 April 2003. 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 enlisted in the Navy on 18 June 1958 at age 17. You served for a year and six months without disciplinary incident, but on 28 December 1959 you were convicted by summary court-martial (SCM) of a five day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for 20 days, hard labor without confinement for 10 days, and a \$30 forfeiture of pay.

On 1 March 1960 you were convicted by special court-martial (SPCM) of a four day period of UA and sentenced to restriction for 45 days and a \$68 forfeiture of pay. Shortly thereafter, on 27 March 1960, you were convicted by SCM of a four day period of UA and breaking restriction. You were sentenced to confinement at hard labor for 30 days, a reduction in rate, and a \$30 forfeiture of pay. On 14 October and again on 28 November 1960 you received nonjudicial punishment (NJP) for failure to obey a lawful order and absence from your appointed place of duty.

Subsequently, you were notified of pending administrative separation action by reason of unfitness as evidenced by your record of disciplinary infractions. At that time you waived your right to consult with legal counsel, present your case to an administrative discharge board, and to submit a statement in rebuttal to the separation action. Your commanding officer then recommended an undesirable discharge by reason of unfitness. On 30 December 1960 the discharge authority directed an undesirable discharge by reason of unfitness, and on 6 January 1961 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, limited education, post service conduct, and your contention that your discharge should be upgraded because it was based on your poor decisions. Nevertheless, the Board concluded recharacterization of your discharge was not warranted due to your repetitive misconduct which resulted in two NJPs, three court-martial convictions, and a conviction by civil authorities. 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