



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

TRG
Docket No: 382-03
28 August 2003

[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 26 August 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 12 October 1954 at age 17. On 12 April 1955 you received nonjudicial punishment for disrespect. A special court-martial convened on 22 August 1955 and convicted you of wrongful appropriation, possession of clothing belonging to another member of the Navy, breaking restriction, conspiracy to break restriction, and an unauthorized absence of about three days. The court sentenced you to forfeiture of \$50 pay per month for four months, confinement at hard labor for four months and a bad conduct discharge. However, upon review, only the forfeitures and confinement were approved. You were restored to duty from confinement on 2 December 1955.

On 11 May 1956, you received nonjudicial punishment for an unauthorized absence of about 10 hours. A second special court-martial convened on 7 November 1956 and convicted you of three periods of unauthorized absence totaling about 27 days, two instances of breaking restriction and missing ship's movement through design. The court sentenced you to forfeiture of \$55 pay per month for five months, confinement at hard labor for five months, reduction to pay grade E-1 and a bad conduct discharge. On 30 January 1957, you elected to waive the right to request

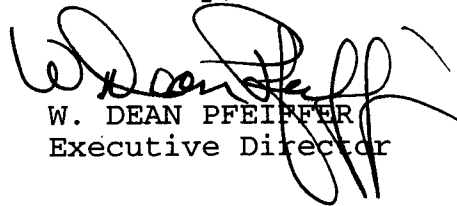
restoration to duty. The bad conduct discharge was issued on 5 April 1957.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, limited education and your contention that you were told that the discharge would automatically be upgraded after six months. However, the Board found that these factors and contentions were not sufficient to warrant recharacterization of the discharge. In this regard, the Board noted your disciplinary record, especially the two convictions by two special courts-martial. Further, there is no provision in the law or regulations that will allow for recharacterization of a discharge based solely on the passage of time. The Board concluded that the discharge was proper as issued and no change is 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