



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

TRG  
Docket No: 2572-03  
3 September 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 initially enlisted in the Navy on 21 December 1954 and served until you were honorably discharged on 11 December 1958. At that time, you were serving as a petty officer third class (BT3; E-4).

You reenlisted in the Navy on 9 March 1959. During the period from 24 April 1959 to 25 January 1963, you received nonjudicial punishment on three occasions and were convicted by two special courts-martial. Your offenses included unauthorized absences of 3 days, 85 days, 18 days and 3 days. The 85 and 18 day periods were terminated only by your apprehension. The offenses also included two instances of drunkenness and disorderly conduct.

On 30 March 1963 you were convicted by civil authorities of lewd and lascivious cohabitation and adultery. The court sentenced you to six months confinement, which was suspended. A third special court-martial convened on 8 October 1963 and convicted you of unauthorized absences of 28 and 114 days, both of which were terminated by your apprehension. The court sentenced you, as mitigated, to confinement at hard labor four for months.

Based on the foregoing record and your conviction by civil authorities, you were processed for an administrative discharge. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board. After review, the discharge authority directed an undesirable discharge by reason of misconduct and you were so discharged on 13 December 1963.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service; and your contention that because you are of American Indian ancestry, you were especially susceptible to alcoholism and blackouts which resulted in the misconduct in your second enlistment. With your application, you have submitted documentation showing that you have maintained sobriety for many years and are very active in helping others overcome the disease of alcoholism.

The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given the frequency and serious of your misconduct. The Board conceded that the short periods of unauthorized absence could have resulted from your alcoholism, but believed that at sometime during the longer periods of unauthorized absence, especially those of 85, 28 and 114 days, you must have made knowing decisions to remain absent. Regulations state that alcohol abuse is not an excuse for misconduct and disciplinary action is appropriate following alcohol related misconduct. Additionally regulations do not preclude discharge processing of individuals who are found to be alcohol dependent. Finally, the Board noted that the lengthy periods of absence were terminated only by your apprehension, indicating to the Board that you would have been an absentee for even longer had you not been caught. The Board concluded that the discharge was proper as issued and no change is warranted.

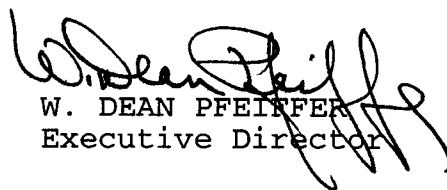
Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you are eligible for veterans benefits based on your prior honorable service. Therefore, if you have been denied benefits you should appeal that denial under procedures established by the Department of Veterans Affairs.

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