



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

SMW

Docket No: 5709-07
11 February 2008

[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 6 February 2008. 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.

On 14 March 1958, you reenlisted in the Navy at age 19 after a prior period of honorable service. On 8 September 1959, you were apprehended by civilian authorities and charged with grand larceny of a tool box valued at \$117. However, you plead guilty and were convicted in civil court of a lesser charge of petit larceny. On 14 September 1959, you made a statement to civilian authorities regarding the theft of four tires and two fender skirts and testified against others involved. On 16 September 1959, you had nonjudicial punishment for a two day period of unauthorized absence.

On 16 September 1959, your commanding officer initiated administrative separation by reason of misconduct due to civil conviction. In connection with this processing, you acknowledged the separation action, declined to submit a statement and waived the right to have your case heard by a board. On 16 November 1959, the separation authority approved the discharge recommendation and directed an undesirable

discharge (UD) by reason of misconduct due to civil conviction. On 10 December 1959, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, period of honorable service, and desire for a better discharge. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Finally, the Board noted that you waived the right to have your case heard by a board, your best opportunity for retention or a more favorable characterization of service. Therefore, 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.

The Board noted that as a result of your prior honorable service, you may be eligible for veteran's benefits. You should contact the nearest office of the Department of Veteran's Affairs if you desire clarification about your eligibility for those benefits.

Sincerely,


W. DEAN PFEIFFER
Executive Director