



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

SJN  
Docket No: 09232-07  
6 August 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 5 August 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.

You enlisted in the Navy on 21 May 1952 at age 17. On 17 August 1953, you received nonjudicial punishment (NJP) for public intoxication. You then served for over two years without incident until 15 September 1955, when you were convicted by special court-martial (SPCM) of larceny of a radio, camera, and Kodak Splicer, and unlawful entry into two civilian homes and a church with intent to commit larceny. You were sentenced to a forfeiture of pay, confinement at hard labor, a reduction in paygrade, and a bad conduct discharge (BCD). On 8 November 1955, you requested to be restored to full duty. However, your commanding officer did not recommend restoration, and you received the BCD after appellate review was completed.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, post service accomplishments, and numerous contentions, such as that you were improperly represented by your counsel. Nevertheless, the Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your NJP and conviction by SPCM for very serious offenses.

Concerning your contention of inadequate counsel, the Board cannot consider such a contention as it pertains to a court-martial, and must restrict its review to clemency action on the sentence. With regard to your other contentions, there is no evidence in the record to support them, and you submitted no such evidence. 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