



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

SMS
Docket No: 4412-08
5 February 2009



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 4 February 2009. 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 13 November 1953, you enlisted in the Marine Corps at age 18. On 24 August 1954, you had nonjudicial punishment (NJP) for disturbing the peace. On 9 November 1954, you were convicted by a summary court-martial (SCM) for willful and wrongful damage to dishes at a Japanese national restaurant and assault against a Japanese national. On 5 July 1955, you were convicted by a SCM for willful and wrongful destruction of a window and assault of a Japanese national by kicking him in the stomach with your foot.

Based on the information currently contained in the record, it appears that your commanding officer subsequently initiated administrative separation by reason of convenience of the government due to your failure to meet retention standards and for other good and sufficient reasons. In connection with this

processing, you would have acknowledged the separation action. On 13 July 1955, a service record entry was made which indicated that you were found to not meet retention standards and would be discharged on 12 November 1955. On 30 August 1955, you had NJP which resulted in a reprimand for resisting apprehension, creating a disturbance inside a public place, and producing a deadly weapon to constitute a threat in a public place. On 18 October 1955, you had NJP for willful disobedience of a lawful order. On 12 November 1955, you were released from active duty with a general characterization of service by reason of convenience of the government. On 12 November 1961, you were honorably discharged from the Marine Corps Reserve due to the expiration of your obligated service.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, honorable discharge from the Marine Corps Reserve, and service in the Army National Guard. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your service. In this regard, characterization of service for members who are discharged by reason of convenience of the government is determined by their conduct, actions, and overall proficiency and conduct marks assigned on a periodic basis. Minimum acceptable average proficiency and conduct marks of 3.8 and 4.0, respectively, were required to form the basis for a fully honorable characterization of service. Your average proficiency and conduct marks were 4.4 and 3.4, respectively. Given the seriousness of your offenses that resulted in five disciplinary actions and your failure to attain the conduct mark average required for a fully honorable characterization of service, the Board found that your service warranted a general 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.

Sincerely,


W. DEAN PFEIFFER
Executive Director