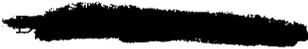




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

RDZ:ecb
Docket No. 06190-08
10 November 2008



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

You enlisted in the Navy on 10 October 1951 at age 17. On 5 June 1953 you were tried and convicted by general court-martial of robbery of \$10.00 from another person using force and violence. Specifically when the victim refused to turn over his money he was hit with a rock. Your record also shows that prior to your general court-martial you were convicted by summary court-martial on three occasions for repeated acts of unauthorized absence and breaking restriction. You also received a non-judicial punishment for missing muster. Because of the seriousness of the offense for which you were convicted

by general court-martial as well as your previous disciplinary record you were sentenced to reduction in rank, forfeiture of all pay and allowances, confinement at hard labor for two years and a bad conduct discharge (BCD). While in confinement you received a second non-judicial punishment for threatening and using profanity towards a superior.

In its review of your application the Board considered all matters in extenuation and mitigation such as your youth and the amount of time you have had to endure the stigma of a BCD. Nevertheless in view of seriousness of the offense that resulted in your conviction by general court-martial as well as prior disciplinary record and subsequent misconduct while in the brig the Board concluded that your discharge was proper as issued and should not be changed now as a matter of clemency. And while you are correct in asserting that racial attitudes have changed for the better since your discharge the Board found that even under current attitudes and standards your misconduct warranted a BCD.

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

Enclosure