



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

SMS
Docket No: 7201-08
25 March 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 24 March 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 14 October 1966, you reenlisted in the Navy at age 23 after a prior period of honorable service. On 31 January 1967, you had nonjudicial punishment for a breach of the peace. During the period 10 to 21 July 1967, you were in an unauthorized absence (UA) status which was later excused due to your acquittal of civilian charges. On 15 September 1967, a medical evaluation stated that you had been previously diagnosed as having a schizoid personality and were being referred to a naval hospital. During the period 15 September to 7 October 1967, you were hospitalized during which time you had a psychiatric evaluation that diagnosed you as having a passive aggressive personality and found that you knew right from wrong. On 2 October 1967, you were arrested by civilian authorities and charged with possession of marijuana, forgery, and misuse of a credit card. On 7 November 1967, you were placed in a UA status when you were held by civilian authorities pending disposition of charges in civilian court. On 4 December 1967, the civilian court dismissed the previous charges and you were convicted of issuing checks having insufficient funds. Your sentence included time in jail, probation, and restitution.

On 15 December 1967, your commanding officer initiated administrative separation by reason of misconduct due to a civil conviction. In

connection with this processing you acknowledged that this could result in an undesirable discharge (UD) and you waived the right to have your case heard by an administrative discharge board (ADB). On 19 December 1967, you were released from civilian confinement after being in a UA status for about 42 days. On 5 January 1968, the separation authority approved the discharge recommendation and directed a UD by reason of misconduct due to a civil conviction. On 23 January 1968, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your prior period of honorable service, awards, and psychiatric evaluation. The Board also considered the letters of recommendation that you submitted with your application and post service achievements. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board also noted that you waived the right to have your case heard by an ADB, 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.

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

The Board further noted that you should contact the National Personnel Record Center (Code 312-D2), 9700 Page Avenue, St. Louis, MO. 63132-5100, to request that your Purple Heart award be added to your DD Form 214 that was issued on 29 July 1966, since the record shows that it was awarded for injuries received during that enlistment.

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