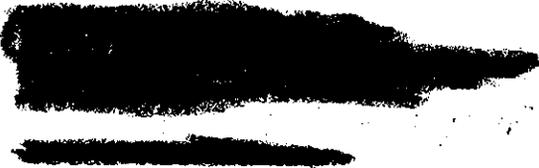




DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 9405-08  
30 July 2009



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 28 July 2009. The names and votes of the members of the panel will be furnished upon request. 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 7 September 1960 at age 17. You served for a year without disciplinary incident, but during the period from 3 October to 9 November 1961, you were convicted by civil authorities of two counts of disturbing the peace, convicted by summary court-martial (SCM) of disrespect, and received nonjudicial punishment (NJP) for drinking alcoholic beverages as a minor. On 5 December 1961 you were notified that discharge action by reason of unfitness had been initiated. After consulting with legal counsel you waived your right to present your case to a field board, but submitted a written explanation for your misconduct and requested retention in the Navy. On 21 December 1961 your commanding officer recommended approval of your request. On 4 January 1962 an enlisted field board, in concurrence with your commanding officer, also recommended retention. On 17 January 1962 the discharge authority directed a general discharge by reason of unfitness.

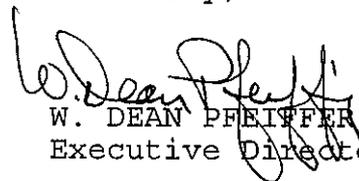
However, this action was held in abeyance and you were retained in the Navy on a probationary status for six months. At that time you were advised that any violations while on probation would result in immediate execution of your discharge.

On 14 February 1962 you began a two day period of unauthorized absence (UA) which was terminated when you were apprehended by civil authorities on 16 February 1962. As a result, you were convicted by civil authorities of disturbing the peace, assault, and carrying a concealed weapon. You were sentenced to a \$30 fine and confinement for 60 days. Subsequently, the discharge authority directed your commanding officer to issue you a general discharge by reason of unfitness due to the civil conviction, and on 23 March 1962 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as youth, post service conduct, and desire to upgrade your discharge so that your grandchildren will be proud of you. It also considered your assertion that your behavior was the result of being with the wrong crowd. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities which resulted in NJP, a SCM, and two civil convictions. Accordingly, your application has been denied.

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