



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

SJN
Docket No: 01177-09
8 December 2009

[REDACTED]

[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 1 December 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 17 November 1953, you enlisted in the Navy after serving over three years of honorable service with the Army. On 1 December 1954, you were convicted by special court-martial (SPCM) of 19 days of unauthorized absence (UA) and breaking restriction. You were sentenced to hard labor and a forfeiture of pay. On 20 December 1954, you were convicted by special court-martial (SPCM) of 27 days of UA and missing movement. You were sentenced to a forfeiture of pay, confinement at hard labor, a reduction in paygrade, and a bad conduct discharge (BCD). On 21 February 1955, you waived your right to request restoration to full duty. 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, prior honorable service with the Army, and overall record of your last period of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of two SPCM convictions for periods of UA totaling 46 days and missing movement. 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