



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

TJR
Docket No: 11200-09
30 August 2010

[REDACTED]

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 24 August 2010. 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 19 January 1956 at age 17 and served for a year and seven months without disciplinary incident, but on 15 July 1957, you were convicted by summary court-martial (SCM) of breaking restriction, wearing an unauthorized insignia, and wrongful possession of a liberty card. About four months later, on 11 November 1957, you were convicted by SCM of wrongful possession of alcoholic beverages aboard your ship.

On 14 February 1958 you were convicted by SCM of wrongful appropriation of a government property, specifically, a trombone valued at \$150. You were sentenced to confinement at hard labor for 15 days and a \$50 forfeiture of pay. Shortly thereafter, on 18 May 1958, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with

legal counsel and to present your case to an administrative discharge board (ADB). However, in June 1958, an enlisted performance evaluation board and your commanding officer reviewed your case and recommended an undesirable discharge by reason of unfitness as evidenced by your moral turpitude, breaches of discipline resulting in three SCMs, inability to adjust to military life, and demonstrated total unfitness. On 11 June 1958 the discharge authority approved these recommendations and directed your commanding officer to issue you an undesirable discharge by reason of unfitness, and on 15 July 1958, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge which would entitle you to receive veteran housing benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in three SCMs within a seven-month period of time. Further, you were given an opportunity to defend yourself but waived your procedural right to present your case to an ADB. 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