



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

TJR
Docket No: 11622-10
18 August 2011

[REDACTED]

[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 16 August 2011. 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 5 November 1959 at age 17 and served for nearly a year without disciplinary incident. However, on 4 October 1960, you were convicted by summary court-martial (SCM) of failure to go to your appointed place of duty and failure to obey a lawful order. Shortly thereafter, on 31 December 1960, you were apprehended by civil authorities and charged with disorderly conduct.

On 2 January 1961, as a result of the aforementioned civil arrest, you began a period of unauthorized absence (UA). After posting a \$50 bond you were released from civil custody on 12 January 1961, thus terminating the period of UA. On 21 January 1961 you were convicted by civil authorities of the foregoing charge of disorderly conduct. On 13 February 1961 you were convicted by SCM of the 10 day period of UA and sentenced to restriction for 30 days and a \$30 forfeiture of pay. About four months later, on 30 June 1961, you received nonjudicial punishment (NJP) for absence from your appointed place of duty.

On 29 November 1961, after undergoing a medical evaluation, you were diagnosed with arthritis - direct trauma, left tarsal navicular, and found to be unfit for duty. As a result, you were transferred to the temporary disability retired list (TDRL). In December 1961 you were processed for an administrative separation by reason of convenience of the government due to your diagnosed arthritis. The discharge authority directed discharge under honorable conditions by reason of convenience of the government due to a physical disability as evidenced by your diagnosed arthritis. On 18 December 1961 you were so discharged and placed on the TDRL effective 19 December 1961. On 17 August 1965 you were removed from the TDRL.

At the time of your separation character of service was based, in part, on conduct and overall trait averages which were computed from marks assigned during periodic evaluations. Your conduct average was 2.7. An average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

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. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities, and since your conduct average was insufficiently high to warrant a fully honorable characterization of service. 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