



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 6637-12
4 October 2012

[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 2 October 2012. 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 11 April 1940 at age 18 and served without disciplinary incident until 18 August 1941, when you received captain's mast (CM) for being absent without leave. During the period from 6 February to 23 November 1942 you received CM on three more occasions for being absent without leave, late for muster, and misbehavior in a motor launch underway. On 24 October 1944 you received your fifth CM for disobedience.

Your record reflects that in June 1945 you stole an automobile, robbed a bus driver, and held up a gas station. As a result, on 4 August 1945, you were convicted by civil authorities of theft of an automobile and robbery, and sentenced to an undetermined period of confinement.

In October 1945, while in the custody of civil authorities, you were processed for an administrative separation by reason of misconduct due to civil conviction. Presumably, after waiving your procedural rights your commanding officer recommended an

undesirable discharge by reason of misconduct due to conviction by civil authorities. On 19 October 1945 the discharge authority approved this recommendation and directed your commanding officer to issue you an undesirable discharge by reason of misconduct, and on 1 November 1945, 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, service in combat, desire to upgrade your discharge, and explanation for your misconduct in the civilian community. The Board also considered your post service conduct and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in the military community which resulted five CMs and in a conviction by civil authorities. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct or the passage of time. 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