



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7383-98

31 August 1999

[REDACTED]

Dear [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 25 August 1999. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 13 September 1956 for three years at age 17. The record reflects that you were advanced to PFC (E-2) and served for 16 months without incident. However, during the 13 month period from January 1958 to February 1959 you received two nonjudicial punishments (NJP) and were convicted by three summary courts-martial. Your offenses consisted of sitting down on post, failure to obey a general regulation, appearing at drill needing a haircut and wearing double-soled shoes, wrongful appropriation, a two hour period of unauthorized absence, and absence from your appointed place of duty.

On 13 July 1959 you were convicted by special court-martial of two specifications of failure to go to your appointed place of duty and failure to obey a lawful order. You were sentenced to confinement at hard labor for six months and forfeitures of \$40 per month for six months. Thereafter, the convening authority reduced the confinement and forfeitures to three months. You received a general discharge on 10 December 1959 by reason of

convenience of the government due to general demobilization or reduction in authorized strength.

Individuals discharged by reason of convenience of the government receive the type of discharge warranted by the service record. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your conduct and proficiency averages were 3.6 and 4.0, respectfully. A minimum average marks of 4.0 in conduct was required for a fully honorable characterization at the time of your discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been nearly 40 years since you were discharged. The Board noted your contentions to the effect that your misconduct was relatively minor and that the Marine Corps purposely exaggerated and trumped up charges in order to demean you as an African-American. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of two NJPs, three summary courts-martial convictions, and a special court-martial conviction. Your contention that the Marine Corps demeaned you as an African-American is neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board believed that you were fortunate that you were allowed to complete your enlistment since most individuals with records such as yours are discharged under other than honorable conditions. The Board concluded that the discharge was proper and no change is warranted. 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