



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 242-99

28 May 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 26 May 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 29 December 1964 for minority enlistment at age 17. The record reflects that you were advanced to SA (E-2) and served without incident until 12 April 1966 when you were convicted by special court-martial of a five day period of unauthorized absence (UA) and larceny of \$460.

On 28 September 1966, you were convicted by a second special court-martial of three specifications of larceny, robbery, two specifications of forgery, and two specifications of use of another individual's military identification card. You were sentenced to confinement at hard labor for two months and a bad conduct discharge. The Navy Board of Review affirmed the findings and the sentence on 23 December 1966. On 6 February 1967 you waived your right to request restoration to duty and requested execution of the bad conduct discharge.

On 7 February 1967 you were convicted by a third special court-martial of two periods of UA totalling about 38 days, from

19 December 1966 to 6 January 1967 and 6-27 January 1967, and breaking restriction. You were sentenced to confinement at hard labor for three months and forfeitures of \$64 per month for three months.

A fourth special court-martial on 14 June 1967 convicted you of a 25 day period of UA sentenced you to confinement at hard labor for six months, forfeitures of \$64 pay per month for six months, and a bad conduct discharge. You escaped from confinement on 21 June 1967 but were apprehended an hour later. On 19 July 1967 the convening authority approved only so much of the sentence that provided for confinement and forfeitures for six months.

Charges of UA and escape from confinement were dismissed at a special court-martial on 20 October 1967. You received the bad conduct discharge on 30 November 1967.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that is has been more than 31 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given the four convictions by special courts-martial, two of which were for serious offenses. You have provided neither probative evidence nor a convincing argument in support of your application. Your convictions and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. The Board concluded that you were guilty of too much misconduct to warrant recharacterization of your discharge to honorable or under honorable conditions. 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