



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No.347-99

14 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 12 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 6 January 1964 for a minority enlistment at age 17. The record reflects that you were advanced to SA (E-2) and served without incident for only five months. During the ten month period from June 1964 to April 1965 you received five nonjudicial punishment (NJP) and were convicted by four summary courts-martial. Your offenses consisted of eight brief periods of unauthorized absence (UA), two instances of disrespect, three instances of disobedience, disorderly conduct, failure to obey a lawful order, dereliction of duty, larceny and wrongful appropriation, and breaking restriction.

On 8 June 1965, you were convicted by special court-martial of three periods of UA totalling less than 24 hours, and three instances of breaking restriction. You were sentenced to confinement at hard labor for four months, forfeitures of \$55 per

month for four months and a bad conduct discharge. The convening authority suspended the bad conduct discharge for the period of confinement and six months thereafter.

During the period from February to June 1966, you received two more NJPs for absence from your appointed place of duty, consuming alcohol while in a duty status, wearing an improper uniform, carrying a deadly weapon, and possession of another person's identification card.

On 8 October 1966, you were notified that you were being considered for an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. You were advised of your procedural rights and waived your right to representation by counsel and presentation of your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended an undesirable discharge by reason of unfitness. An enlisted personnel evaluation board was convened in the Bureau of Naval Personnel on 26 October 1966 and recommended separation with an undesirable discharge by reason of unfitness. The Chief of Naval Personnel approved the recommendation and directed an undesirable discharge by reason of unfitness. You were so discharged on 16 November 1966.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, Vietnam service, the 17 letters of reference, and the fact that it has been more than 32 years since you were discharged. The Board noted your contentions that you had an alcohol problem in the service and have been actively involved in Alcoholics Anonymous for the past ten years. The board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of seven NJPs and convictions by four summary courts-martial and a special court-martial. It appeared to the Board you received considerable leniency when the convening authority suspended the bad conduct discharge. However, your misconduct continued and you received two more NJPs after the discharge was suspended, one during the probation period. The Board noted you waived your right to an ADB, the last remaining opportunity you had to show why you should be retained or discharged under honorable conditions. The Board concluded that you were guilty of too much misconduct to warrant recharacterizing your discharge to honorable or under honorable conditions. A Federal Bureau of Investigation report obtained by the Board noted that your post-service conduct has been marred by convictions for burglary and driving under the influence of alcohol. 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