



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 1398-99

9 July 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 7 July 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 Naval Reserve on 5 May 1943 at age 20 for two years, or for the duration of the war plus six months. The record reflects that you were advanced to seaman second class and served without incident until 10 September 1943 when you were convicted by summary court-martial of absence over leave from 10-24 August 1943. You were sentenced to confinement for two months and forfeitures of \$27 per month for six months. The convening authority remitted the confinement and reduced the forfeitures to four months.

On 4 May 1944 you were convicted by general court-martial of a 196 day period of absence without leave (AWOL) from 27 September 1943 to 10 April 1944. You were sentenced to confinement at hard labor for 11 months, reduction in rate to apprentice seaman, and a bad conduct discharge. On 10 May 1944 the convening authority remitted the bad conduct discharge during the period of confinement and for 11 months thereafter provided you maintained satisfactory conduct and performance during this period. On

20 December 1944 you were again advanced to seaman second class and restored to duty.

On 26 December 1944, you received nonjudicial punishment (NJP) for being AWOL from 23-26 December 1944. Punishment imposed was reduction in rate to apprentice seaman. The probationary period was terminated and the bad conduct discharge was ordered executed. You received the bad conduct discharge on 5 January 1945.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your limited education, low test scores, good post-service conduct, and the fact that it has been more than 54 years since you were discharged. The Board noted your contentions that you were scared of the service and fought against its discipline. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of an NJP, conviction by a summary court-martial and the conviction by general court-martial of an AWOL of more than six months during wartime. The Board noted the aggravating factor that you were given an opportunity to earn a discharge under honorable conditions when the bad conduct discharge was suspended for a probationary period, but you went AWOL again almost immediately upon release from confinement. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. The Board concluded that the discharge was proper and no clemency 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