



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 3292-01
27 August 2001

[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 Navy Records, sitting in executive session, considered your application on 22 August 2001. 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 1 July 1947 for three years at age 18. The record reflects that you completed recruit training and were advanced to fireman second class.

You served for 14 months without incident. However, during the five month period from September 1948 to February 1949 you received two nonjudicial punishments (NJP) for insolence to a petty officer and an absence over leave for a period of one day. However, you were advanced to FN (E-3) on 15 April 1949.

The record reflects that on 17 August 1949 you and two other men picked up a black Sailor and drove to National City, CA. Upon arrival, you all got out of the car and one of the men simulated that he had a gun in his pocket and pointed it at the black Sailor. The record indicates you searched the black Sailor and took six dollars from him. After taking the man's money, you

took him to a bus stop and let him go. You and the two other men proceeded to San Diego, where you picked up another Sailor and were later apprehended by the police. On 30 August 1949 you were convicted of second degree robbery by the civil authorities and placed on probation for a period of four years.

On 21 September 1949 you were convicted by summary court-martial of an absence over leave from 16 August to 16 September 1949. You were sentenced to forfeitures of \$45 per month for six months, extra police duties for two months, and a bad conduct discharge.

On 11 October 1949 the commanding officer reported your convictions by civil court and summary court-martial to the Chief of Naval Personnel. The Secretary of the Navy approved the bad conduct discharge and you were so discharged on 23 November 1949.

In its review of your application the board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, letters of reference, expression of regret, your wife's letter, and the fact that it has been more than 51 years since you were discharged. The Board noted your contentions that the civil conviction was the result of following the other sailors, you were given probation because you did not commit the crime and, under current standards, you would not have been discharged. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of three NJPs, a summary court-martial conviction, and the serious nature of the offense of which you were convicted by civil authorities. The Board did not agree with your contention that if convicted under current standards you would not have received a bad conduct discharge. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. Additionally, a Federal Bureau of Investigation report obtained by the Board indicates that your post-service conduct has been marred by convictions for drunk and reckless driving.

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

Copy to
The American Legion