



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

ELP
Docket No. 5355-01
19 November 2001



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 15 November 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 19 December 1950 for four years at age 18. The record reflects that you were advanced to TA (E-2) and served for only three months without incident. During the two month period from March to May 1951 you received two nonjudicial punishments (NJP) and were convicted by a deck court and a summary court-martial. Your offenses consisted of a brief period of unauthorized absence (UA) of about 15 hours, two periods of UA totaling about 25 days, and failure to muster.

On 1 November 1951 you were convicted by general court-martial of UA from 6 July to 10 September 1951, a period of about 67 days. You were sentenced to confinement at hard labor for five months, reduction in rate to TR (E-1), and a bad conduct discharge. The Navy Board of Review affirmed the findings and sentence on 4 February 1952. Thereafter, you were not recommended for restoration to duty.

On 30 April 1952 you received a third NJP for two periods of UA from 14-22 March and 29 March to 3 April 1952. You received the bad conduct discharge on 5 May 1952.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, low test scores, and the fact that it has been more than 49 years since you were discharged. The Board noted your contention that the punishment was too severe for the offense, and the outcome would have been different had you not been so naïve and waived your appeal rights. However, the Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs and convictions by a deck court, a summary court-martial and a general court-martial in only 17 months of service. The Board noted the aggravating factor that the 65 day period of UA of which you were convicted by general court-martial was terminated only by your apprehension. You failed to learn from your earlier disciplinary actions and continued your misconduct even after your general court-martial conviction. Your contention that the outcome would have been different had you appealed is speculative at best and does not provide a valid basis for recharacterization of service. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. The Board thus 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