



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

CRS  
Docket No: 1322-02  
26 August 2002

[REDACTED]

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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 31 July 2002. 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 Marine Corps on 4 September 1958 at age 17. The record reflects that you received four nonjudicial punishments and were convicted by a summary court-martial and a special court-martial. The offenses included unauthorized absences totalling 39 days, sleeping on post, and absence from your appointed place of duty. On 31 May 1962 you were convicted by civil authorities of stealing a car. The court sentenced you to probation for five years. Subsequently, you were convicted by a second special court-martial of an unauthorized absence of 67 days.

On 15 August 1962 the commanding officer recommended that you be separated with an undesirable discharge by reason of misconduct due to civil conviction. When informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and on 3 October 1962 you received an undesirable discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the contention that you were exposed to chemical agents. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of the civil conviction and your frequent military offenses. In this regard, the record contains no evidence, and you have submitted none, to show that you were exposed to chemical agents. Even if you were exposed, there is no indication that such exposure caused an inability to know right from wrong or adhere to the right, or was sufficiently mitigating to warrant recharacterization of your discharge. 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