



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

TJR
Docket No: 2218-02
19 September 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 17 September 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 19 September 1955 at the age of 17. On 25 May and again on 30 October 1956, you were convicted by summary court-martial (SCM) of disrespect and a four day period of unauthorized absence (UA).

During the period from 17 May to 7 October 1957 you received nonjudicial punishment (NJP) on three occasions for disobedience and two periods of absence from your appointed place of duty.

From 25 March to 25 July 1958 you received NJP on four other occasions for failure to go to your appointed place of duty, missing the movement of your ship, absence from your appointed place of duty, and failure to obey a lawful order. On 21 August 1958 you were convicted by special court-martial (SPCM) of failure to obey a lawful order and were sentenced to confinement at hard labor for three months and a \$210 forfeiture of pay. On 31 October 1958, while in confinement, you received your eighth NJP for disobedience.

On 22 October 1958 you were notified of pending administrative separation action by reason of unfitness as evidenced by the 11 disciplinary actions. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB) and you also submitted a written request for retention so that you could complete your term of service. Your request stated, that an undesirable discharge was not warranted for such petty offenses. However, on 14 November 1958, an ADB recommended separation by reason of unfitness. Subsequently, your commanding officer recommended an undesirable discharge by reason of unfitness. The discharge authority approved this recommendation and directed an undesirable discharge. On 5 December 1958 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you need a discharge upgrade so that you may receive veterans' benefits. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in eight NJPs and three court-martial convictions. 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