



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

TJR
Docket No: 4632-02
29 January 2003

[REDACTED]

[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 23 January 2003. 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 reenlisted in the Marine Corps on 3 July 1951 after two years of prior honorable service. You served without disciplinary incident until 26 December 1952, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty. The punishment imposed was restriction for two weeks.

On 15 January and again on 16 April 1954 you received NJP for disobedience, wrongfully removing a liberty card, going on liberty without permission, and possession of nontax paid alcoholic beverages.

On 18 January 1955 you were convicted by special court-martial (SPCM) of three specifications of bribery and graft. You were sentenced to confinement at hard labor for two months, a \$60 forfeiture of pay, and reduction to paygrade E-2. Approximately seven months later, on 19 July 1955, you were convicted by civil authorities of child molestation. You were sentenced to confinement for three years.

Subsequently, you were processed for an administrative separation action by reason of misconduct due to civil conviction. On 25 October 1955 your commanding officer recommended an other than honorable discharge by reason of misconduct due civil conviction. On 9 November 1955 the discharge authority then directed an other than honorable discharge by reason of misconduct. On 22 November 1955, while in custody of civil authorities, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, combat service, and your contention that your discharge was inequitable because it was based on one isolated incident which occurred in a six year period. The Board further considered your contention of good post service conduct. However, a Federal Bureau of Investigation (FBI) report states that since discharge, you have been convicted by civil authorities on several occasions. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct in the military community which, resulted in three NJPs and a court-martial conviction, and the seriousness of your misconduct in the civilian community which resulted in 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