



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

WMP

Docket No: 4698-02
19 December 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the 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 December 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 Navy on 15 September 1947 for three years at age 17. At that time, you had completed 10 years of education and attained test scores which placed you in Mental Group IV.

You served without incident until 21 July 1949, when you received nonjudicial punishment (NJP) for a three day period of unauthorized absence from 16 to 18 June 1949. The punishment imposed was 12 days of restriction.

Your record further reflects that on 18 November 1949, you were convicted by a general court-martial of 37 days of unauthorized absence, from 23 August to 28 September 1949. You were sentenced to confinement at hard labor for four months, a

reduction in rate, and a bad conduct discharge. On 18 November 1949 the convening authority approved the adjudged sentence.

On 17 January 1950, the Naval Sentence Review and Clemency Board (NSR&CB) restored you to duty and suspended the bad conduct discharge for a period of six months, effective 8 February 1950.

Your record further shows that you were an unauthorized absentee from 13 February to 28 March 1950, a period of 45 days. As a result of this period of unauthorized absence, on 26 April 1950, the convening authority vacated the suspended punishment from the general court-martial of 18 November 1949, and ordered the bad conduct discharge executed. On 4 August 1950, upon approval of the Secretary of the Navy, you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education and low test scores. However, the Board concluded that your conviction by court-martial for a 37 day period of unauthorized clearly warranted severe punishment, which the court-martial correctly imposed. Upon review and as a matter of clemency, your bad conduct discharge was suspended and you were restored to duty, thus giving you the opportunity to earn a better characterization of service. However, you then departed on another period of unauthorized absence. As a result of this misconduct, the suspension was appropriately vacated and you were issued the bad conduct 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