



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

TJR
Docket No: 6645-01
13 May 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 7 May 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.

The Board found you enlisted in the Navy on 5 December 1956 at the age of 17. Your record reflects that on 22 August 1957 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded extra duty for five days.

During the period from 2 May to 23 December 1958 you received NJP on four occasions for two periods of absence from your appointed place of duty, two specifications of failure to obey a lawful order, and possession of another person's liberty card. You were also convicted by civil authorities on 15 September 1958 of burglary, for which you received a suspended jail sentence of one year.

Your record further reflects that on 4 February 1959 you were convicted by summary court-martial (SCM) of a six day period of unauthorized absence (UA). You were sentenced to restriction and hard labor for 20 days and a \$54 forfeiture of pay, which was suspended for six months. Shortly thereafter, on 26 February 1959, you received NJP for leaving your post without being

properly relieved for duty. The punishment imposed was extra duty for three days. On 11 May 1959 you were convicted by special court-martial (SPCM) of a 25 day period of UA and missing the movement of your ship. You were sentenced to confinement at hard labor for two months, an \$88 forfeiture of pay, and reduction to paygrade E-2. On 9 October 1959 you were again convicted by SPCM of wrongful appropriation of four motorcycles and sentenced to confinement at hard labor for four months and reduction to paygrade E-1.

Subsequently, on 11 December 1959, you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military and civilian authorities. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. However, you submitted a statement in which you noted that you did not wish to remain in the Navy and requested discharge. On 16 December 1959 your commanding officer recommended an undesirable discharge by reason of unfitness. On 30 December 1959 the discharge authority approved the foregoing recommendation and directed an undesirable discharge, and on 19 January 1960 you were so discharged.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and post service conduct. The Board also considered your letter of explanation, court records, and certificates of birth, marriage, and death. However, the Board found these factors were not sufficient to warrant recharacterization of your discharge given your repetitive misconduct in both the military and civilian communities. The Board noted that you were the subject of ten adverse actions during about three years of service. Given all the circumstances of your case, the Board concluded your discharge was proper and no change 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