



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

CRS  
Docket No: 7240-02  
8 August 2003



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 16 July 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 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 7 December 1959 after nearly two years of prior active Army service. The record reflects that you received two nonjudicial punishments and were convicted by four summary courts-martial and a special court-martial. The offenses included unauthorized absences totalling four days, breach of the peace, missing movement, assault, and failure to obey a lawful order.

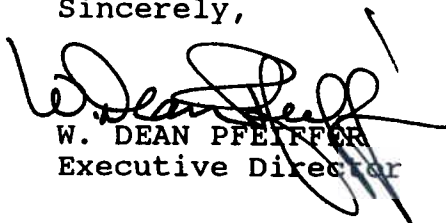
On 30 May 1961 an administrative discharge board recommended that you be separated with an undesirable discharge by reason of unfitness. After review by the discharge authority, the recommendation for separation was approved and on 10 October 1961 you received an undesirable discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the contention that the proceedings of the special court-martial were improper. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your

discharge, given your record of frequent involvement with military authorities. In this regard, the Board noted that you were the subject of seven disciplinary actions in a period of less than two years. Further, the Board has no authority to disturb the findings or sentence of a court-martial based on claims of legal error. 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