



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

TJR
Docket No: 9015-02
30 July 2003

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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 29 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You reenlisted in the Navy on 14 March 1960 after three years of prior service. You continued to serve without disciplinary incident for five years, but on 12 March 1965 you submitted a written statement in which you admitted to molesting two underage children on 3 March 1965. On 20 March 1965, following an investigation into the aforementioned allegation, you waived your right to consult with legal counsel and reaffirmed your statement.

Subsequently, administrative separation action was initiated by reason of unfitness. A field board then considered your case and found that you had committed misconduct, but recommended retention.

On 12 May 1965 your commanding officer advised the discharge authority of your child abuse and requested that you be issued a general discharge, stating, in part, as follows:

Primary reason for separation.... indecent acts with underage children (ages 4 and 5).... complaint resulted from mother of one of the girls involved.... during investigation, Sailor admitted indecent acts.... charges referred to general court-martial (GCM).... convening authority returned charges because children would not be able to testify at trial and/or insufficient evidence for trial.

On 18 May 1965 an enlisted performance evaluation board (EPEB) in the Bureau of Naval Personnel recommended an undesirable discharge due to unfitness. This recommendation was later modified to a general discharge by the Chief of Naval Personnel (CNP). However, on 16 June 1965, CNP directed that the discharge be held in abeyance in order that you could provide a further statement. After you were notified that you could do so, and after consulting with legal counsel, you provided a further written statement.

Subsequently, on 10 July 1965, you submitted documentation and character references supporting your request for retention. However, on 15 July 1965, your commanding officer again recommended a general discharge by reason of unfitness. After the EPEB concurred, the discharge authority then directed a general discharge by reason of unfitness on 20 July 1965. On 31 August 1965 you were so discharged.

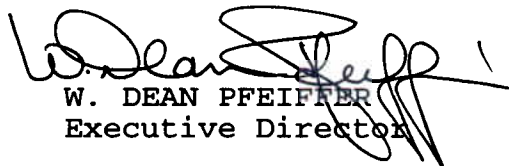
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service, post service conduct, and your contention that since it's been over 37 years since you made the mistake which resulted in your discharge, your characterization of service should now be changed. Nevertheless, the Board concluded these factors contention were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Further, no discharge is automatically upgraded due to the passage of time or due to an individual's good behavior after 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