



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

ELP  
Docket No. 632-02  
16 May 2002

[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 Navy Records, sitting in executive session, considered your application on 15 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 20 December 1961 for four years at age 18. The record reflects that you served without incident until August 1963 when you began two periods of unauthorized absence (UA) from 31 August to 15 September and 27 September to 1 October 1963. On 8 October 1963 you were delivered to federal authorities for trial on charges of interstate transportation of stolen property (three forged checks).

On 11 October 1963 you were informed that you were being considered for discharge under other than honorable conditions. After being advised of your procedural rights, you waived your right to be represented by counsel and to present your case to an administrative discharge board (ADB).

On 6 November 1963 you were convicted by civil authorities of one count of forgery and received an indeterminate suspended sentence and placed on three years of probation.

On 4 December 1963 you were convicted by special court-martial of a 16-day period of UA from 31 August to 15 September 1963, breaking restriction, and theft of \$50. You were sentenced to confinement at hard labor for six months, reduction in rank to AR (E-1), and forfeitures of \$40 per month for six months. On 6 December 1963 the convening authority reduced the confinement and forfeitures to three months.

On 20 December 1963 the commanding officer (CO) recommended to the Chief of Naval Personnel (CNP) that you be separated with an undesirable discharge. He stated that you had shown a wanton disregard for military rules and regulations, as well as the rules of society. He further stated that your military offense of UA and breaking restriction were carefully planned. In the case of your larceny, he said you stole, not only from a shipmate, but from a close friend. The CO concluded by saying that the civil conviction was closely related to your military offenses, in that the checks you wrote were used to finance your first period of UA.

On 27 December 1963, an enlisted performance evaluation board convened in the Bureau of Naval Personnel and recommended separation with an undesirable discharge by reason of misconduct due to civil conviction. However, CNP directed that the discharge be held in abeyance pending further observation of your conduct and fitness for retention. CNP further directed that you be advised that you were being placed in a probationary status for a period of 12 months and that the CO was authorized to execute the undesirable discharge if you violated any of the terms of your probation.

On 1 April 1964 you received the undesirable discharge and the CO notified CNP of your discharge. He stated that you had broken into a command office and stole \$18 and change from the coffee mess. He also stated that you had admitted to the breaking and entering and the larceny, were fully aware of the consequences of your actions and the adverse effects of an undesirable discharge, and expressed a desire to receive the discharge. A report of your discharge and the reasons therefore were made to your federal probation officer.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, regret for the actions which led to discharge, your wife's statement, letters of reference, and the fact that it has been more than 38 years since you were discharged. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given the serious nature of your civil conviction and special court-martial conviction. The Board noted the aggravating factor that CNP gave you an oppor-

tunity to earn a discharge under honorable condition, when it suspended the discharge for a probationary period of 12 months. However, your misconduct continued and the probation was terminated. A Federal Bureau of Investigation report obtained by the Board shows convictions subsequent to your discharge for forgery and interstate transportation of a stolen vehicle. The Board thus concluded that the 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