



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

ELP
Docket No. 1223-02
23 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 Navy Records, sitting in executive session, considered your application on 22 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 Marine Corps on 8 September 1958 for four years at age 18. The record reflects that you were advanced to Private first class and served more than nine months without incident. However, during the three month period from June to September 1959 you were convicted by a summary court-martial and received a nonjudicial punishment (NJP). Your offenses consisted of two periods of unauthorized absence (UA) totaling about 13 days.

On 14 October 1959 you were convicted by civil authorities of forcible trespassing and fined \$50. You were reported UA again on 24 November 1959 and remained absent until you were apprehended by civil authorities and returned to military jurisdiction on 27 December 1959. On the same day, you broke straggler's orders and remained absent until 8 January 1960, when you were arrested by civil authorities on a charge of larceny. On 11 February 1960, you were convicted of assault with intent to

commit robbery and sentenced to 3-12 months of confinement.

On 26 February 1960 you were notified that an undesirable discharge was being recommended by reason of misconduct due to civil conviction. You were advised of your procedural rights and waived those rights. Thereafter, the discharge authority directed an undesirable discharge by reason of misconduct due to civil conviction. You were so discharged on 7 April 1960.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 42 years since you were discharged. The Board noted your contention that the three periods of UA did not warrant a discharge under other than honorable conditions. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of an NJP, a summary court-martial conviction and two civil convictions. Your civil convictions brought great discredit upon both yourself and the Marine Corps, and reflected negatively on its members. The Board concluded that you were guilty of too much misconduct in 19 months of service to warrant recharacterization to honorable or under honorable conditions. 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