



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 4164-99

20 September 1999

[REDACTED]

Dear [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 Naval Records, sitting in executive session, considered your application on 15 September 1999. 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 26 April 1956 at age 17 for a minority enlistment. You were advanced to SA (E-2) and served without incident until 1 September 1956 when you were reported in an unauthorized absence (UA) status. You returned on 5 September 1956, but went UA again on 8 September 1956. You remained absent until you were apprehended by civil authorities on charges of theft and the unlawful taking of a motor vehicle. You were convicted by civil authorities of the foregoing charges and placed on probation for three years.

You were released to military authorities on 26 November 1956. On the same day, the commanding officer recommended that you be separated with an undesirable discharge. On 6 December 1956, an administrative discharge board convened in the Bureau of Naval Personnel and recommended an undesirable discharge by reason of misconduct due to the civil conviction. The Chief of Naval Personnel (CNP) approved the recommendation and directed an undesirable discharge by reason of misconduct.

On 12 December 1956 you were convicted by special court-martial of two periods of UA from 1-5 September and 8 September to 20 November 1956. You were sentenced to confinement at hard labor for two months and forfeitures of \$57 per month for two months. You received an undesirable discharge as directed by CNP on 8 February 1957.

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 you were found guilty of only a 16 day period of UA and taking an automobile for joy riding, and that you learned from your mistakes. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given the serious nature of the charges of which you were convicted by civil and military authorities. The record reflects that the two periods of UA of which you were found guilty totalled 77 days, not 16 days. The UA did not terminate when you were apprehended by civil authorities, but continued until you were released to military authorities. Your civil conviction brought great discredit upon yourself and reflected negatively upon the Navy, the command, and your peers. Additionally, a Federal Bureau of Investigation report obtained by the Board noted that your post-service conduct has been marred by convictions of petty theft, driving an automobile without the owner's consent, and possession of narcotics. The Board 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