



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

CRS  
Docket No: 5220-02  
10 September 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 Naval Records, sitting in executive session, considered your application on 4 September 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.

The Board found that you reenlisted in the Navy on 4 September 1965 after about three years of prior active service. You reenlisted with a guarantee that you would be assigned to Class C Air Conditioning and Refrigeration School. The record reflects that on 23 November 1965 you received nonjudicial punishment (NJP) for an unauthorized absence of nine days. The punishment imposed was a reduction in pay grade from third class petty officer (MM3; E-4) to fireman (FN; E-3). On 26 November 1965 you were informed that since you were no longer a petty officer, you were ineligible for the school assignment.

Subsequently, you received three more NJPs and were convicted by a special court-martial. The offenses included unauthorized absences totalling 12 days, failure to obey a lawful order, failure to pay a just debt, and breaking restriction. On 26 August 1969 you were convicted by civil authorities of car theft. The court sentenced you to confinement for 180 days.

On 12 November 1969 the commanding officer recommended that you

be separated with an undesirable discharge by reason of misconduct due to the civil conviction. When informed of the recommendation, you elected to waive the right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and you received an undesirable discharge on 14 January 1970.

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 Navy did not honor your contract. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of the civil conviction and your five disciplinary actions. In this regard, it is clear that your contract would have been honored but you were disqualified when you were reduced in rank at NJP. 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