



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

ELP
Docket No. 708-01
7 June 2001

[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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 6 June 2001. 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 29 June 1951 for a minority enlistment at age 17. The record reflects that you were awarded the Korean Service Medal for service on board the USS ROCHESTER and were advanced to CS3 (E-4). You served without incident until 8 March 1954 when you received nonjudicial punishment (NJP) for possession of two military identification (ID) cards and a forged ID card. Punishment imposed was a reduction in rate to CSSN (E-3).

On 24 March 1954 you were convicted by civil authorities of possessing and furnishing narcotics. On 22 April 1954, you were sentenced to six months in jail, with all but 60 days suspended, and to a year of probation. The maximum sentence you could have received was six years in prison.

On 1 May 1954 the commanding notified the Chief of Naval Personnel (CNP) of your conviction and recommended that you be

discharged. Thereafter, an administrative discharge board was convened in the Bureau of Naval Personnel and recommended that you be separated with an undesirable discharge by reason of misconduct due to conviction by civil authorities. On 26 May 1954, CNP directed an undesirable discharge and you were so discharged on 8 July 1954.

Applicable regulations provided that an individual convicted by civil authorities for an offense which involved moral turpitude, or for which the maximum permissible punishment under the Uniform Code of Military Justice is confinement in excess of one year, may be administratively discharged, as undesirable, by reason of misconduct.

In its review of your application the Board carefully weighed all potentially mitigating factors such as youth and immaturity, limited education, Korean service, good post-service conduct, regret for the actions which led to your discharge, and the fact that it has been more than 46 years since you were discharged. The Board noted your contention that you were also court-martialed for an unauthorized absence as result of the civil conviction sentence. However, available records contain no evidence that you were court-martialed upon your release by civil authorities. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of an NJP and a civil conviction for drug offenses. Your civil conviction brought great discredit to the Navy, the command, and your peers. The Board concluded 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