



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

ELP
Docket No. 2898-01
7 December 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 of the Board for Correction of Navy Records, sitting in executive session, considered your application on 4 December 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.

You enlisted in the Marine Corps for three years on 23 August 1954 at age 18. The record reflects that on 22 October 1954, Headquarters, Marine Corps requested information from the U.S. Marshal in Anchorage, AK regarding your arrests on 4 May 1953 and 19 April 1954 for larceny and burglary, and receiving and concealing stolen property. The U.S. Marshall responded that you had pled guilty and were sentenced to five years of probation.

On 29 November 1954, the Commandant of the Marine (CMC) advised the Marine Corps Recruit Depot that you had procured your enlistment through fraudulent means by failing to disclose a pre-service civil arrest record. Thereafter, you were notified that you were being processed for discharge by reason of misconduct due to a fraudulent enlistment. You declined to submit a statement in your own behalf. On 3 January 1955, the commanding officer recommended discharge by reason of misconduct. A board of officers convened on 20 January 1955 and recommended that you be separated with an undesirable discharge by reason of

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 46 years since you were discharged. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your failure to disclose your pre-service police record. A current FBI report obtained by the Board continues to show that you were arrested in 1953 for robbery and burglary, and in 1954 for receiving and concealing stolen property. The FBI report also shows that your post-service conduct has been marred by convictions for robbery, trespass, driving while intoxicated, rape, petty larceny, drunkenness, and forgery. Since your discharge was based on the results of a fingerprint comparison made by the FBI which indicated that you had arrested on two different occasions prior to enlistment, the Board concluded that there was no merit in the argument that your undesirable discharge was erroneous because another individual's record being erroneously submitted. 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