



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

ELP
Docket No. 5351-01
30 November 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 28 November 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 Navy on 30 August 1966 for four years at age 19. The record reflects that you served without incident until 17 August 1967 when you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA). Thereafter, you were advanced to SN (E-3) and received the Vietnam Service Medal for service on board the USS SAINT PAUL. On 2 April 1968 you were convicted by summary court-martial of a four day period of UA. You were sentenced to confinement at hard labor for 15 days and a forfeiture of \$80.

The record further reflects that on 29 November 1968 you were arrested by civil authorities for being in a place where marijuana was being used and on 8 January 1969, you were convicted of that offense in civil court. You were sentenced to one year of probation.

On 15 January 1969 you were notified that you were being considered for an undesirable discharge by reason of civil conviction due to your involvement with narcotics. You were advised of your procedural rights, declined to consult with legal

counsel or submit a statement in your own behalf, and waived the right to present your case to an administrative discharge board.

An enlisted performance evaluation board convened in the Bureau of Naval Personnel on 29 January 1969 and recommended that you be separated with an undesirable discharge by reason of unfitness. However, the record reflects during the following five months you were retained in a legal hold status pending further disciplinary action and since you were a possible witness in a general court-martial. During this period, you received three NJPs for failure to obey a lawful order, four periods of UA totaling about 12 days, and failure to go to your appointed place of duty. You were released from legal hold on 17 June 1969 and received the undesirable discharge on 26 June 1969.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, Vietnam service, and the fact that it has been more than 32 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of four NJPs, a summary court-martial conviction and a civil conviction for a drug offense. You have provided neither probative evidence nor a persuasive argument in support of your application. The Board believed that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. The Board thus 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