



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

ELP
Docket No. 8213-00
24 July 2001

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 20 July 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 at age 17 on 19 September 1963 for a minority. The record reflects that you were advanced to SA (E-2). On 15 May 1964 you submitted a request for hardship discharge due to your father's ill health and inability to work. You stated that other family siblings were unable or refused to help your father. The commanding officer (CO) recommended that your request be denied because you had two brothers living in the immediate area. The CO noted you had married in December 1963 and your wife had just given birth to a baby in April 1964. He believed this was the underlying reason for your request. The Chief of Naval Personnel denied your request for a hardship discharge on 9 June 1964. You were advanced to SN (E-3) on 16 July 1964.

On 4 August 1966 you submitted a second request for a hardship discharge because your father's health had further deteriorated and he had no income, and your wife was looking after your father

and your two small children. The Chief of Naval Personnel denied your second request on 22 August 1966.

The record reflects you departed on an unauthorized absence (UA) on 16 December 1966. You were apprehended by civil authorities on 27 December 1966 and charged with burglarizing a drugstore, taking about \$20 in cash and a transistor clock radio. Since you were unable to post bond, you were confined pending trial. On 6 February 1967 you were sentenced to 60 days in jail and probation for three years.

On 23 February 1967 you were notified that you were being considered for an undesirable discharge by reason of misconduct due to conviction by civil authorities. You were advised of your procedural rights and waived your right to be represented by legal counsel and present your case to an administrative discharge board (ADB). Thereafter, the CO recommended an undesirable discharge by reason misconduct.

An enlisted performance evaluation board was convened in the Bureau of Naval Personnel on 23 March 1967 and recommended an undesirable discharge by reason of misconduct due to civil conviction. The Chief of Naval Personnel approved the recommendation and you were so discharged on 13 April 1967.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, hardship problems, completion of all but five months of your enlistment, good post-service conduct, letters of reference, and the fact that it has been more than 34 years since you were discharged. However, the Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your civil conviction of an offense involving moral turpitude. The Board also noted that you were UA at the time of the civil offense. Your conviction reflected negatively not only upon you and your family, but on the Navy, your command and peers. Despite your contention to the contrary, the Board concluded that under current standards you would still be discharged under other than honorable conditions. While the Board was sympathetic toward your hardship problems, it was not convinced they were of such magnitude that they warranted the commission of a criminal act. 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