



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

CRS
Docket No: 2439-02
15 August 2002

[REDACTED]

[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 Naval Records, sitting in executive session, considered your application on 14 August 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 13 August 1964 after more than three years of prior active service. The record reflects that on 20 June 1967 you were convicted by civil authorities of voluntary manslaughter. The court sentenced you to confinement for four years.

On 6 September 1967 the commanding officer recommended that you be separated with an undesirable discharge by reason of misconduct based on the civil conviction. Upon being advised of this recommendation, you elected not to contest the separation action. After review by the discharge authority, the recommendation for separation was approved and you received an undesirable discharge on 13 November 1967.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and the fact that you have been granted a pardon. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given the seriousness of

the civil conviction. In this regard, the action of a state in granting a pardon does not mandate recharacterization of a discharge that resulted from the conviction at issue, since the conviction was valid at the time. 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