



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

TJR
Docket No: 2822-02
6 November 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 5 November 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 29 October 1957 at the age of 17. On 22 April 1958 you were convicted by special court-martial (SPCM) of three specifications of larceny and missing bunk check. You were sentenced to confinement at hard labor for two months, a \$108 forfeiture of pay, and reduction to paygrade E-1. On 19 December 1958 you were convicted by civil authorities of simple assault. Shortly thereafter, on 29 December 1958, you were convicted by SPCM of a 33 day period of unauthorized absence (UA) and missing the movement of your ship. You were sentenced to confinement at hard labor for a month and restriction for two months.

On 5 April and again on 8 July 1959 you received nonjudicial punishment (NJP) for failure to obey a lawful order, illegal possession of a liberty card, and absence from your appointed place of duty. On 9 July 1959 you were notified of pending administrative separation action by reason of unfitness. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB) and submitted a written request for retention. Subsequently, by a vote of 2-to-1, an ADB

recommended retention. The minority member recommended a general discharge by reason of unfitness due to petty offenses. However, on 27 July 1959, your commanding officer recommended you be issued an undesirable discharge by reason of unfitness due to military misconduct as evidenced by your dishonest, disloyal, and complete disregard for authority. On 7 August 1959 the discharge authority directed a general discharge by reason of unfitness, and on 21 August 1959 you were so separated.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you made poor decisions which adversely affected your conduct. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your frequent misconduct in both the military and civilian communities. The Board also noted that individuals discharged for unfitness often received undesirable discharges and that you were fortunate to receive a general discharge. 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