



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

WMP
Docket No: 5040-02
26 November 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your husband's naval record pursuant to the provisions of Title 10 of the 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 20 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 husband's 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 on 11 October 1955 for six years at age 18. Your record reflects that you served without incident until 8 May 1956, when you received nonjudicial punishment (NJP) for assault. The punishment imposed was restriction for seven days and ten hours of extra duty. On 27 June 1956 you received NJP for disobeying a lawful order. The punishment imposed was 14 days of extra duty.

On 8 August 1956 you again received NJP for failure to go to your appointed place of duty. The punishment imposed was 10 days of restriction. On 19 November 1956 you received NJP for failure to go to your appointed place of duty. The punishment imposed was 10 days of restriction.

On 13 February 1957 you were convicted by summary court-martial of failure to obey a lawful order and damaging government property. You were sentenced to a forfeiture of \$35 and 30 days of restriction. On 13 February 1957, the convening authority approved the adjudged sentence and ordered its execution.

Your record further reflects that on 23 June 1958 you received NJP for failure to be at your appointed place of duty. The punishment imposed was 14 days of restriction. On 31 July 1958 you received NJP for failure to be at your appointed place of duty. The punishment imposed was 7 days of restriction. On 11 December 1958 you received NJP for disobeying a lawful order. The punishment imposed was 14 days of extra duty.

On 24 May 1957, you were recommended for an undesirable discharge by reason of unfitness. You were advised of and waived all your procedural rights and you declined to make a statement. On 13 June 1957, the discharge authority approved your undesirable discharge by reason of unfitness, and on 9 July 1957 you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, the fact that it has been 45 years since your discharge, and your contention that your discharge was the result of prejudice and racism. However, the Board concluded that your seven NJP's and conviction by a summary court-martial clearly supported the undesirable discharge by reason of unfitness. Furthermore, although the Board views all claims of racial discrimination with concern, a thorough review of your records provided no evidence of racial discrimination at your command. Additionally, you have not provided any evidence of racial discrimination other than your unsubstantiated statement. 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