



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

TRG
Docket No: 10888-02
27 May 2003

[REDACTED]

This is in reference to your application for correction of your 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 May 2003. 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 on 3 December 1952 at age 17. During the period from 5 February 1953 until 30 December 1955 you received nonjudicial punishment on eight occasions and were convicted by two summary courts-martial. Your offenses were four periods of unauthorized absence totaling about five days, failure to go to your appointed place of duty, destruction of government property, disobedience, disrespect, and several other relatively minor offenses. A special court-martial convened on 1 February 1956 and convicted you of treating a petty officer with contempt, assault and the theft of \$65. The court sentenced you to forfeiture of \$67 pay per month for six months, confinement at hard labor for six months and a bad conduct discharge. The bad conduct discharge was issued on 29 June 1956.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and contention that you were not guilty of theft. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your extensive disciplinary record and especially the serious nature of the offenses of which you were convicted by the special court-

martial. The record shows that although you plead not guilty, you were convicted and the conviction was reviewed and found to be legally sufficient. Furthermore you should also understand that this Board is prohibited by law from reviewing courts-martial and must limit its review to determining if the sentence should be reduced as a matter of clemency. The Board concluded that the discharge was proper as issued 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