



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

TJR
Docket No: 5013-08
5 March 2009

[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 3 March 2009. The names and votes of the members of the panel will be furnished upon request. 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 10 September 1957 at age 17 and immediately began a period of active duty. You served for two years without disciplinary incident, but on 10 September 1960, you received nonjudicial punishment (NJP) for absence from your appointed place of duty. On 30 September 1960 you were convicted by summary court-martial (SCM) of failure to obey a lawful order. Shortly thereafter, on 16 October 1960, you were convicted by special court-martial (SPCM) of assault with a dangerous weapon and communicating a threat. You were sentenced to confinement at hard labor for four months, reduction to paygrade E-1, and a bad conduct discharge (BCD). However, one of the charges was set aside and on 31 January 1961 the BCD was disapproved.

On 12 May 1961 you were convicted by civil authorities of disorderly conduct and sentenced to a workhouse assignment for 30 days. About a month later, on 8 June 1961, the discharge authority directed your release from active duty under honorable

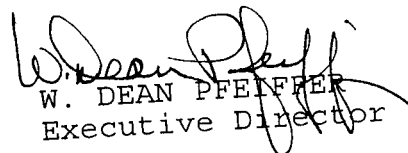
conditions by reason of convenience of the government due to your nonpotential as a petty officer, and on 14 June 1961 you were so released. On 9 September 1963, at the expiration of your enlistment, you were issued a general discharge.

Character of service is based, in part, on conduct and overall trait averages which are computed from marks assigned during periodic evaluations. Your conduct average was 2.3, and an average of 3.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, period of satisfactory service, desire to upgrade your discharge, post service conduct, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities, and since your conduct average was insufficiently high to warrant a fully honorable characterization of service. Further, the Board noted that you were given an opportunity to earn a better characterization of service when the BCD was disapproved, but your misconduct continued. Finally, no discharge is automatically upgraded due solely to the passage of time or an individual's good behavior after discharge. Accordingly, your application has been denied.

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