



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BAN

Docket No: 09319-09

25 June 2010

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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 June 2010. 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.

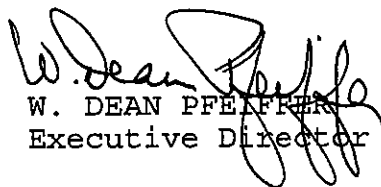
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 21 June 1955, and served without disciplinary incident until 6 April 1956, when you received nonjudicial punishment (NJP) for underage drinking. Shortly thereafter, on 13 July 1956, you were convicted in civil court for larceny, and on 21 July 1956, you received another NJP for an unauthorized absence (UA). Additionally, you were in an UA status for 91 days. While UA, you were convicted in civil court for assault and robbery. However, you were returned to military custody and convicted at a special court-martial for resisting arrest, assault, and communicating a threat. Therefore, you were recommended for separation with an other than honorable (OTH) discharge due to your civil conviction. The separation authority approved the recommendation and on 6 August 1957, you were separated in absentia with an OTH discharge and an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to the serious nature of your civil conviction. 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