



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 8580-98

30 April 1999

[REDACTED]

Dear [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 21 April 1999. 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 Marine Corps on 22 August 1964 for four years at age 17. The record reflects that you were advanced to PFC (E-2) and served without incident for 10 months. However, during the 10 month period from June 1964 to April 1965 you received four nonjudicial punishments (NJP) for breaking restriction, five instances of failure to go to your appointed place of duty, a three day period of unauthorized absence (UA), and possession of a blank identification card.

On 11 May 1965, you were convicted by a special court-martial of theft of a portable radio and unlawful entry to commit larceny. You were sentenced to confinement at hard labor for six months, forfeitures of \$50 per month for six months, and a bad conduct discharge. The convening authority approved only so much of the

sentence that provided for a bad conduct discharge, confinement at hard labor for five months, and forfeitures of \$20 per month for five months.

On 21 July 1965, you were convicted by a second special court-martial of unlawful entry, impersonating an officer, breaking restriction, assault, escaping from custody, and a one-hour period of UA. You were sentenced to confinement at hard labor for six months, forfeitures of \$55 per month for six months, and a bad conduct discharge. The convening authority approved only so much of the sentence that provided for confinement at hard labor for four months and forfeitures of \$55 per month for four months. The supervisory authority further reduced the confinement and forfeitures to two months on 13 August 1965.

On 13 September 1965, you requested suspension of the discharge adjudged and restoration to duty. However, clemency and restoration to duty were denied by the Secretary of the Navy. The findings and the sentence adjudged on 11 May 1965 were affirmed by the Navy Board of Review on 27 October 1965. You received the bad conduct discharge on 9 December 1965.

In its review of your application, the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, good post-service conduct, and the fact that it has been more than 33 years since you were discharged. The Board noted the contention that you believed you were an alcoholic while in the service. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of four NJPs and the serious offenses of which you were convicted by two special courts-martial. Your contention is neither supported by the evidence of record nor by any evidence submitted in support of your application. Further, alcoholism does not excuse misconduct. The Board concluded that you were guilty of too much misconduct in 28 months of service to warrant recharacterization of your discharge to honorable or under honorable conditions. The Board thus concluded that the discharge was proper and no clemency 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