



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

ELP
Docket No. 3173-99
13 September 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 9 September 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 Navy on 22 October 1959 for four years at age 18. The record reflects that you were advanced to FA (E-2) and served for 14 months without incident. However, during the 26 month period from December 1960 to February 1963 you received five nonjudicial punishments (NJP) and were convicted by a special court-martial. Your offenses consisted of three periods of unauthorized absence (UA) totalling about 15 days, making a false official statement, failure to obey a sentry's order, abusive language towards a sentry, use of profane and obscene language, failure to stop for a gate sentry, disobedience, missing movement, and escaping from custody.

On 8 March 1963 you were notified that discharge under other than honorable conditions was being recommended due to your frequent misconduct. You were advised of your procedural rights and waived your rights to representation by counsel and presentation of your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended that you be separated with an undesirable discharge.

On 20 March 1963, an enlisted performance evaluation board convened in the Bureau of Naval Personnel and recommended an undesirable discharge by reason of unfitness. The Chief of Naval Personnel (CNP) approved the recommendation but directed that execution of the undesirable discharge be held in abeyance during a probationary period of 12 months. In its letter, CNP advised that any violation of the terms of probation could result in your immediate discharge. On 1 April 1963, you acknowledged in writing that you understood the terms of your probation.

On 11 April 1963, you received your sixth NJP for being drunk and disorderly in public. No punishment was awarded, but the commanding officer ordered execution of the undesirable discharge as approved by CNP. You were discharged under other than honorable conditions on 17 April 1963 by reason of unfitness due to frequent involvement of a discreditable nature with military authorities.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, the letters of reference attesting to your deprived family background, your need for medical benefits, your wife's letter, and the fact that it has been more than 36 years since you were discharged. The Board particularly noted counsel's brief and his contentions to the effect that you were alcohol dependent at the time of your discharge; alcohol abuse contributed to each of the incidents that led to your discharge; the Navy's culture in the early 1960's encouraged drinking and contributed to the dependency of some of its members; under current standards you would have been afforded rehabilitation; and your discharge should be upgraded since there is "substantial doubt" that you would have received the same discharge under current standards.

The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of six NJPs and a special court-martial conviction. The Board noted the aggravating factor that you had an opportunity to earn a discharge under honorable conditions but violated your probation within a month due to drunk and disorderly conduct, the only incident in the record that clearly was alcohol related. There is no evidence in the record that alcohol was a contributing factor in any of the other five disciplinary actions. The Board has no way of determining at this late date whether or not you were alcohol dependent. Under current standards, rehabilitation for the purpose of retention may be directed for an individual who is determined by a medical officer to be alcohol dependent. The Navy treats those who are determined to have potential for further service, however, those determined to have no potential are afforded treatment via a Department of Veterans Affairs treatment facility prior to

discharge. The fact that there were no rehabilitation facilities at the time of your service does not provide a compelling basis for changing the characterization of your discharge. The Board concluded that with six NJPs and a special court-martial conviction, you had no potential for further service and would not have received a different characterization under current standards. Alcohol abuse does not excuse misconduct or an individual or responsibility for his actions. The Board concluded that the discharge was proper 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

Copy to:
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