



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

ELP
Docket No. 4695-98
21 August 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 18 August 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 26 June 1970 for two years at age 19. You were assigned to Vietnam on 8 January 1971.

The record reflects that you served without incident until April 1971 when you received two nonjudicial punishments (NJP) for disobedience of an order, a 14 hour period of unauthorized absence (UA), and absence from your appointed place of duty. As a result of the NJPs, you were counseled that your conduct and proficiency marks were below standards. You refused to sign the counseling statement.

The medical record reflects a 10 May 1971 entry stating "This man was wounded on 17 April 1971 under heavy mortar attack to be evacuated by Great lakes...Award Purple Heart." However, the extent of the injuries sustained are not shown in your medical

record. On the same day, a report of evacuation on file in the record indicates you were medically transferred from Vietnam for peptic ulcer disease.

The record further reflects two periods of UA from 2-10 June and 22-23 June 1971, for which no disciplinary action is shown in the record. During the nine month period from June 1971 to March 1972, you received two more NJPs for two instances of failure to go to your appointed place of duty, a 24 hour period of UA, failure to obey a lawful order, and failure to obey a regulation. During the foregoing period, you were again counseled that your conduct and proficiency marks were below standards.

On 1 May 1972, you were counseled that you were being processed for an undesirable discharge by reason of unfitness. However, you refused to sign the counseling statement. You received your fifth NJP on 30 June 1972 for having an unclean and rusty rifle.

You were released under honorable conditions on 30 June 1972 and transferred to the Marine Corps Reserve.

Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your conduct and proficiency averages were 3.8 and 3.9, respectively. A minimum average mark of 4.0 was required in conduct for a fully honorable characterization at the time of your separation.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, low test scores, Vietnam service, and the fact that it has been more than 27 years since you were discharged. The Board noted Department of Veteran Affairs medical records, which shows you have a 27 year history of heroin addiction and were diagnosed with post traumatic stress disorder in 1996. The Board also noted your contention that your five disciplinary actions for were for petty infractions and the service representative's letter stating that you were recently approved for the Purple Heart. The Board concludes that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record five NJPs and your failure to achieve the require average in conduct. The Board believed that you were fortunate to receive a discharge under honorable conditions. Most individuals with records such as yours receive discharges under other than honorable conditions. While PTSD and drug addiction may be considered mitigating factors, neither excuses misconduct. 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