



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 4918-99

6 October 1999



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 28 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 Marine Corps on 11 November 1974 for four years at age 18. The record reflects that you served without incident until March 1975 when you began a series of four unauthorized absences (UA) from 3-5 March, 6 March to 1 April, 7 April to 1 May, and 6-10 May 1975.

On 15 May 1975, you received nonjudicial punishment (NJP) for the foregoing four periods of UA totalling about 56 days. Punishment imposed consisted of 30 days of correctional custody and forfeitures of \$150 per month for two months. However, on the date of the NJP, you went UA again and remained absent until you were apprehended by civil authorities on 30 January 1976.

On 23 February 1976, you submitted a request for an undesirable discharge for the good of the service to escape trial by court-martial for the foregoing 260 day period of UA. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your rights and warned

of the probable adverse consequences of accepting such a discharge. On 24 February 1976, the discharge authority approved the request and you were discharged under other than honorable conditions on 3 March 1976.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, letters of reference, need for veterans medical benefits, and the fact that it has been more than 26 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of an NJP and the fact that you requested discharge rather than face trial by court-martial for more than eight months of UA. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. You have provided neither probative evidence nor a convincing argument in support of your application. Given all the circumstances of your case, the Board concluded your 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