



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

TRG  
Docket No: 1405-01  
15 August 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the 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 14 August 2001. 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.

You enlisted in the Marine Corps on 6 September 1974 for four years and subsequently extended that enlistment for 11 months. The record shows that you then served in an excellent manner for over four years. However, sometime prior to the expiration of your enlistment in 1979, you were arrested by civil authorities and subsequently convicted of murder.

For some reason, no action was taken in your case until 18 February 1983, when you were notified of separation processing by reason of misconduct due to your conviction by civil authorities. An administrative discharge board met on 16 September 1983 and found that you had committed misconduct which warranted discharge under other than honorable conditions. A staff judge advocate found the case against you sufficient in law and fact, and noted that you had been convicted of murder and sentenced to 20 years imprisonment. Subsequently, the discharge authority directed discharge under other than honorable conditions and you were so discharged on 11 October 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your period of good service, respect for the Marine Corps and desire for a

recharacterized discharge. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your conviction by civil authorities of murder. The Board concluded that the discharge was proper as issued 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

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The American Legion