



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2044-00

31 August 2000

[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 29 August 2000. 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 6 November 1967 at the age of 19. Your record shows that on 8 May 1968 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and failure to obey lawful order. The punishment imposed was a \$24 forfeiture of pay. On 9 July 1968 you received NJP for a 10 day period of unauthorized absence (UA), and were awarded reduction to paygrade E-1 and restriction and extra duty for 14 days. On 13 October 1968 you received NJP for assault with a dangerous weapon and communicating a threat to kill. The punishment imposed was a \$27 forfeiture of pay. Approximately six months later, on 9 March 1969, you were convicted by summary court-martial (SCM) of disobedience and failure to obey a lawful order. You were sentenced to confinement at hard labor for 15 days and a \$30 forfeiture of pay. On 15 December 1969 you received NJP for a two pay period of UA. The punishment imposed was restriction for seven days and forfeitures totalling \$20.

Your record further reflects that during the period from 24 February to 11 March 1970 you received NJP on three occasions for disobedience and two periods of UA totalling five days.

On 30 March 1970 you were notified of pending administrative separation action by reason of unfitness due to your frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 27 May 1970 an ADB recommended an undesirable discharge by reason of unfitness due to your frequent involvement of a discreditable nature with military authorities. Your commanding officer recommended you be issued an undesirable discharge by reason of unfitness. On 29 June 1970 the discharge authority directed your commanding officer to issue you an undesirable discharge by reason of unfitness. On 2 July 1970 you were so discharged.

Your record reflects that on 16 September 1977, under the Department of Defense Discharge (DOD) Special Discharge Review Program (SDRP), the characterization of your undesirable discharge was changed to general under honorable conditions. However, this recharacterization does not entitle you to benefits administered by the Department of Veterans' Affairs (DVA). On 22 May 1979, as required by Public Law 95-126, the Navy Discharge Review Board (NDRB) determined that you did not qualify for an upgrade of your discharge under uniform standards and denied your request to upgrade your general discharge. However, the characterization of the discharge you received from the SDRP was not changed. Subsequently, you were advised that the NDRB had not affirmed your discharge and that you might be ineligible for veteran's benefits.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded so that you may receive medical assistance for your post traumatic stress disorder and other health problems. However, the Board found the evidence and materials submitted were not sufficient to warrant any favorable action given your frequent misconduct which resulted in seven NJPs and a court-martial conviction. The Board noted that your characterization of service was changed to general under honorable conditions under the provisions of SDRP, but concluded that no further change is warranted. Given all the circumstances of your case, the Board concluded your discharge, as issued under the SDRP, 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