



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

TRG
Docket No: 2128-00
16 October 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 16 October 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.

The Board was unable to obtain your service record and conducted its review based on the copies of the record you submitted. The available records show that you enlisted in the Marine Corps on 26 August 1966 at age 18. You then served in Vietnam from 12 February 1967 until early in 1968. While in Vietnam you participated in nine combat operations, however, there is no evidence that you were awarded the Combat Action Ribbon. In addition, during 1967 you received nonjudicial punishment and were convicted by a special court-martial. Your offenses were a failure to go to your appointed place of duty and treating a noncommissioned officer with contempt.

On 25 January 1968 you were convicted by another special court-martial of failing to report for guard school, disobedience and leaving your post without being properly relieved. Subsequently, you were an unauthorized absentee on four occasions totaling about 246 days. A general court-martial convened on 18 February 1969 and convicted you of the four periods of absence. The court sentenced you, as mitigated, to forfeiture of all pay and

allowances, confinement at hard labor for one year and a bad conduct discharge. The bad conduct discharge was issued on 23 December 1969.

On 17 August 1972 you fraudulently reenlisted in the Marine Corps. When the fraud was discovered you were processed for an administrative discharge. You were issued an undesirable discharge on 3 May 1973.

The records you submitted show that on 10 July 2001, the National Personnel Records Center, St. Louis, Missouri issued you a certification of military service which shows that you served in the Marine Corps from 29 April 1967 until you were issued an honorable discharge on 20 June 1970. The basis for the issuance of this document is unknown since the available records clearly show that you received a bad conduct discharge on 23 December 1969.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth, limited education, service in Vietnam, and your contention that your family problems impaired your ability to serve. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your repeated misconduct and especially your conviction by a general court-martial of unauthorized absences totaling about 246 days. The Certification of Military Service was disregarded because it was in conflict with the information contained in the record.

Concerning the undesirable discharge you received on 3 May 1973, the Board found that you fraudulently enlisted by concealing the fact that you had previously received a bad conduct discharge. In such a case an undesirable discharge is normally issued. The Board concluded that a change in the undesirable discharge issued on 3 May 1973 was not 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