



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

ELP
Docket No. 2544-00
15 September 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 7 September 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 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 30 May 1972 for two years at age 19. The record reflects that you were advanced to PFC (E-2) and served without incident until 13 November 1972 when you reported as an unauthorized absentee (UA). You remained absent until you surrendered to military authorities on 9 January 1973. Charges were referred to a special court-martial on 1 February 1973. However, you went UA again from 2 March to 17 April 1993.

On 14 May 1973 you submitted a request for an undesirable discharge for the good of the service to escape trial by court-martial for the foregoing two periods of UA, and disobedience of a lawful order. 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. A staff judge advocate reviewed the request and found it to be sufficient in law and fact. On 14 June 1973 the discharge authority directed an undesirable

discharge for the good of the service. You were so discharged on 27 June 1973.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, low test scores, need for veterans benefits, and the fact that it has been more than 27 years since you were discharged. The Board noted your contention that without an upgrade in your discharge, you will be homeless. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given the fact that you requested discharge rather than face trial by court-martial for two periods of UA totalling more than three months. 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. The fact that you now need veterans benefits and may become homeless, this does not provide a valid basis for recharacterizing your service. 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