



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

TJR
Docket No: 5019-01
15 January 2002

[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 8 January 2002. 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 28 April 1969 at the age of 18. At the time you had completed 10 years of formal education and attained test scores which placed you in mental group IV.

Your record reflects that on 22 September 1969 you received nonjudicial punishment (NJP) for a 25 day period of unauthorized absence (UA) and were awarded restriction for 14 days and a seven day forfeiture of pay. Approximately two months later, on 28 November 1969, you received NJP for a two day period of UA. The punishment imposed was a \$20 forfeiture of pay and correctional custody for seven days.

On 5 and 25 March 1970 you received NJP for a seven day period of UA and absence from your appointed place of duty. On 6 March 1970 you were convicted by summary court-martial (SCM) of a nine day period of UA, absence from your appointed place of duty, and failure to obey a lawful order. You were sentenced to a \$60

forfeiture of pay and confinement at hard labor for a month. On 27 August and again on 16 November 1970 you received NJP for an 11 day period of UA and wrongfully discharging a firearm under circumstances endangering human life.

Your record further reflects that on 2 March 1972 you were convicted by SCM of a 20 day period of UA. You were sentenced to hard labor for 45 days. Shortly thereafter, on 14 July 1972, you were convicted by special court-martial (SPCM) of a nine day period of UA and were sentenced to a reduction to paygrade E-2, confinement at hard labor for three months, and a \$300 forfeiture of pay.

On 22 November 1972 you were notified of pending administrative separation action by reason of unfitness. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. On 20 December 1972 you received NJP for a two day period of UA and were awarded restriction and extra duty for seven days.

Subsequently, on 15 January 1973, the discharge authority directed an undesirable discharge by reason of unfitness. On 29 March 1973 you received NJP for a day of UA and were awarded extra duty for 14 days. On 14 May 1973 you received an undesirable discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, limited education, low test scores, and Vietnam service. The Board further considered your contentions that you did not receive proper legal advice regarding your court-martial and discharge, your ability to properly serve was impaired by your marital problems, traumatic experiences while serving in Vietnam, limited education, and peer pressure. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your frequent misconduct, which resulted in eight NJPs, two SCMs, and one SPCM, a total of 11 disciplinary actions. Given all the circumstances of your case, the Board concluded your 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