



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

TJR  
Docket No: 7016-00  
11 June 2001

[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 5 June 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 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 31 July 1959 at the age of 18. Your record reflects that on 19 November 1959 you received nonjudicial punishment (NJP) for failure to obey a lawful order and were awarded restriction for two weeks. Approximately a year later, on 30 November 1960, you were convicted by civil authorities of second degree burglary and were sentenced to confinement for two years, which was subsequently suspended.

On 6 January 1961 you were convicted by special court-martial (SPCM) of two periods of unauthorized absence (UA) totalling 76 days. You were sentenced to confinement at hard labor for three months, a \$55 forfeiture of pay, and reduction to paygrade E-1. On 16 February 1961 you were notified of pending administrative separation action by reason of misconduct due to the civil conviction. At this time you waived your rights to consult with legal counsel, present your case to an administrative discharge board, or to submit a statement in rebuttal to the discharge. On 3 March 1961 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to

civil conviction. On 15 March 1961 the discharge authority directed an other than honorable discharge by reason of misconduct, and on 29 March 1961 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your contention that you were subjected to prejudicial treatment. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive misconduct in both the military and civilian communities. Further, there is no evidence in your record, and you submitted none, to support your contention of prejudice. 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