



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

TJR
Docket No: 3512-02
6 November 2002

[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 November 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.

You enlisted in the Marine Corps on 3 January 1966 at the age of 18. You serve for two years and three months without disciplinary incident but on 5 March 1968 you began a 27 day period of unauthorized absence (UA) that was not terminated until 1 April 1968.

On 4 April 1968 you began another period of UA that was not terminated until January 1975. Subsequently, you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for the foregoing period of UA totalling six years, 10 months, and 24 days. Your record shows that 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. At this same time you requested participation in the alternate service program in accordance with Presidential Proclamation 4313. Your requests were granted and your commanding officer was directed to issue you an undesirable discharge by reason of the good of the service. As a result of this action, you were spared the stigma of a court-martial

conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 29 January 1975 you were issued an undesirable discharge.

On 19 May 1976, upon completion of your alternate service and in accordance with a recommendation of the Presidential Clemency Board, your BCD was changed to a clemency discharge pursuant to Presidential Proclamation 4313. At that time you were issued a clemency discharge certificate.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, time served in Vietnam, and your contentions of mental disorders and physical problems. Nevertheless, these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the seriousness of your very lengthy period of UA and your request for discharge to avoid trial for this offense. Further, the Board noted that the undesirable discharge was changed to a clemency discharge, but concluded that a further change 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