



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

TJR  
Docket No: 5181-01  
22 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 15 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 1 October 1964 at the age of 17. Your record reflects that you served for two years without disciplinary incident, including service in Vietnam. However, during the period from 8 to 10 October 1966 you were in an unauthorized absence (UA) status for two days. During this period you were also apprehended by civil authorities for stealing an automobile. On 21 October 1966 you were convicted by civil authorities of interstate transportation of a stolen vehicle. On 6 November 1966 you were sentenced to confinement for up to six years as a youthful offender.

On 14 December 1966, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. On 27 December 1966 your commanding officer recommended an undesirable discharge by reason of misconduct due to civil conviction. Subsequently, on 19 January 1967, the discharge authority directed an other

than honorable discharge, and on 30 January 1967 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 post service conduct. The Board further considered your contention that because you served your time in combat you deserve an upgrade of your discharge. The Board also considered your contention that you were not a deserter because Marine Corps authorities were aware of your incarceration by civil authorities. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct in the civilian community. 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