



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

TJR
Docket No: 5250-00
31 January 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 23 January 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 26 June 1968 at the age of 27. Your record reflects that you served for nearly a year without incident but on 13 May and again on 17 June 1969 you received nonjudicial punishment (NJP) for disrespect and two specifications of failure to obey a lawful order. On 2 September 1970 you received NJP for communicating a threat.

Your record further reflects that on 22 and 23 January 1971 you received NJP for disobedience, two specifications of disrespect, failure to obey a lawful order, making a false official statement, and breaking restriction. Shortly thereafter, on 5 March 1971, you were convicted by summary court-martial (SCM) of an Article 134 offense in that you appeared improperly dressed for inspection because your shoes had not been shined, you had not shaven, your hair had not been cut, and you were wearing shiny collar emblems with an unpressed uniformed. You were sentenced to restriction for a month, \$84.10 in forfeitures of pay, and reduction to paygrade E-2.

Subsequently, you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. At this time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board or submit a statement in rebuttal to the discharge. On 16 March 1971 your commanding officer recommended you be issued a general discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities as evidenced by five NJPs and a court-martial conviction. On 9 April 1971 the discharge authority approved this recommendation and directed a general discharge by reason of unfitness, and on 13 April 1971 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, good post service conduct, and your contention that you are now disabled. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the repetitive nature of your misconduct, which resulted in five NJPs and a court-martial conviction. The Board noted that there is no evidence in the record, and you submitted none, to support your contention. 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