



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

TJR  
Docket No: 10343-02  
12 September 2003



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 9 September 2003. 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 9 September 1963 at age 17. On 4 May and again on 17 August 1964 you received nonjudicial punishment (NJP) for two specifications of drunk and disorderly conduct.

On 22 February 1965 you were convicted by special court-martial (SPCM) of assault and theft of \$30. You were sentenced to a \$75 forfeiture of pay, reduction to paygrade E-1, and confinement at hard labor for six months. On 13 July 1965 you received NJP for failure to obey a lawful order, sleeping on watch, and being incapacitated for duty. The punishment imposed was a \$75 forfeiture of pay.

During the period from 27 December 1965 to 15 February 1966 you were hospitalized after complaints of malaria, chills and fever. You were subsequently diagnosed with malaria with plasmodium falciparum which you incurred while serving in Vietnam.

You received NJP on 28 February and 31 March 1966 for two periods of unauthorized absence (UA) totalling two days. On 8 June 1966 you began a 29 day period of UA that was not terminated until 7 July 1966. However, the record does not reflect the disciplinary action taken for this period of UA. On 26 October 1966 you were convicted by SPCM of a 67 day period of UA and were sentenced to confinement at hard labor for six months, a \$342 forfeiture of pay, and a bad conduct discharge (BCD). On 18 November 1966 the convening authority approved only so much of the sentence that provided for confinement at hard labor for four months and a \$220 forfeiture of pay.

On 31 May 1967 you were convicted by SPCM of two periods of UA totalling 101 days. You were sentenced to confinement at hard labor for six months, a \$260 forfeiture of pay, and a BCD. On 24 October 1967 you submitted a written request for immediate execution of the BCD, in which you stated, in part, that you could not get along in the Marine Corps. Subsequently, the BCD was approved at all levels of review and on 9 November 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, service in Vietnam, and the letter submitted with your application from your niece in support of your case. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your serious repetitive misconduct, which included theft from a fellow Marine and multiple and lengthy periods of UA totalling more than nine months. The Board also noted that your misconduct resulted in eight disciplinary actions, three of which were court-martial convictions. Further, the Board noted that the sentence to a BCD at an earlier court-martial was disapproved, but you failed to take advantage of this second chance and went UA on two more occasions. 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