



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

JRE
Docket No. 07751-07
11 August 2008



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 10 July 2008. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 30 January 1967. You were convicted by special court-martial on 25 June 1969 of a lengthy period of unauthorized absence, and writing eleven bad checks. Upon your release from confinement, you were absent without authority from 11 September 1969 to 1 November 1969. On 6 February 1970, you were convicted by special court-martial unauthorized absence and four specifications of wrongfully appropriating property of other Marines. You were sentenced to be discharged from the Marine Corps with a bad conduct discharge. While awaiting review of the conviction and sentence, you were arrested by Japanese authorities and charged with multiple acts of larceny and fraud.

On 4 December 1970, you stated that you did not want to be restored to duty, and formally requested that your bad conduct discharge be executed. You were separated from the Marine Corps with a bad conduct discharge on 24 February 1971, upon completion of appellate review. On 30 June 2007, the Department of Veterans Affairs (VA) determined that your service in the Marine Corps was dishonorable for VA purposes.

The Board was not persuaded that you were unfit for further service by reason of physical disability at the time of your discharge. In addition, it concluded that your service was properly characterized with a bad conduct discharge, given your extensive record of misconduct. It noted that you would not have been entitled to disability separation or retirement even if you had been unfit for duty, because your bad conduct discharge would have taken precedence over disability processing. Accordingly, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge as a matter of clemency, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

If you are in need of medical, you should consider contacting the VA, which notified you on 30 July 2007 that you are eligible for health care and related benefits for any disability or disabilities incurred or aggravated in the line of duty during any period of active service.

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