



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

SJN
Docket No: 07775-07
26 June 2008

[REDACTED]

[REDACTED]

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 24 June 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 13 November 1968 at age 17. On 14 April 1969 and 31 March 1970, you received nonjudicial punishment (NJP) for wearing an unauthorized insignia on your uniform and two days of unauthorized absence (UA). On 2 December 1970, you were convicted by special court-martial (SPCM) of three periods of UA totaling 198 days. You were sentenced to a reduction in paygrade, a forfeiture of pay, confinement at hard labor, restriction, and a bad conduct discharge (BCD).

On 21 December 1970, the convening authority modified your confinement at hard labor and suspended the BCD for the period of confinement and six months thereafter. During the period from 6 January to 9 March 1971, you had two periods of UA totaling 61 days. On 5 April 1971, you began another period of UA that lasted 266 days, ending on 27 December 1971. On 29 February 1972, your commanding general vacated your suspended BCD. On 2 March 1972, you received a third NJP for 33 hours of UA. You received the BCD after appellate review was completed.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, Vietnam service, and current health issues. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your three NJP's, conviction by SPCM for periods of UA lasting over six months, and your last three periods of UA totaling 327 days, which led to the execution of your BCD. 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