



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

CRS
Docket No: 9506-07
15 August 2008

[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 6 August 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 15 August 1967. On 5 April 1968 you arrived in Vietnam. While in Vietnam, you were convicted by two special courts-martial. The offenses included unauthorized absences totaling 285 days, being in off-limits areas, escaping from lawful custody, and breaking restriction.

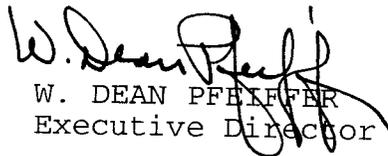
On 23 May 1970 you submitted a written request for discharge for the good of the service in lieu of trial by court-martial for an unauthorized absence and possession of three ration cards. Prior to submitting this request you conferred with a qualified military lawyer who advised you of your rights and warned of the probable adverse consequences of receiving an undesirable discharge. Your request was approved by the discharge authority, and you received an undesirable discharge on 25 June 1970.

In its review of your application the Board carefully considered your 19 contentions, to include the contention that racism impaired your ability to serve. Nevertheless, the Board concluded that your service was properly characterized by an undesirable discharge, given your extensive record of misconduct

and the serious nature of the offenses you committed in a combat zone. The Board believes considerable clemency was extended to you when your request for discharge was granted, and you should not be permitted to change it now. The Board was not persuaded that you were the victim of racial discrimination. 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