



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

TJR
Docket No: 162-08
1 December 2008



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 25 November 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 12 July 1967 at age 17. You served for nearly a year without disciplinary infraction, but on 19 September 1968 you received nonjudicial punishment (NJP) for a 48 day of unauthorized absence (UA). The punishment imposed was a \$25 forfeiture of pay, extra duty for 45 days, and a reduction to paygrade E -1.

On 18 April 1969 you were convicted by a special court-martial (SPCM) of three periods of UA totalling 83 days and breaking restriction. About six months later, on 21 October 1969, you were again convicted by SPCM of a 141 day period of UA. You were sentenced to confinement at hard labor for five months and a bad conduct discharge (BCD).

On 6 March 1970 you began another period of UA that was not terminated until you were apprehended on 19 June 1970. During this 105 day period of UA you were also declared a deserter. Nonetheless, the record does not reflect the disciplinary action taken for this misconduct. On 23 June 1970 you elected to waive

your right to request restoration to duty and requested immediate execution of the BCD. Your request stated, in part, that you couldn't adjust to military life, felt that the longer you were retained, the more trouble you would be in, and had not accomplished anything that would be useful in civilian life. Subsequently, the BCD was approved at all levels of review, and on 10 July 1970 you were issued a BCD.

Approximately six years after being discharged, and upon satisfactory completion of alternate service, your initial discharge (the BCD) was changed and you were awarded a clemency discharge pursuant to Presidential Proclamation 4313.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge. It also considered your assertion that your periods of UA were due to family problems. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge given the frequency and seriousness of your misconduct lengthy periods of UA and request for immediate execution of your discharge. Further, your discharge was changed to a clemency discharge, but the Board concluded that recharacterization to honorable or under honorable conditions was not 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