



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

SMS  
Docket No: 712-08  
5 September 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 3 September 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.

On 30 April 1962, you enlisted in the Marine Corps at age 18. On 3 December 1962, you began an unauthorized absence (UA) that ended on 14 December 1962, a period of about 11 days. On 18 December 1962, you were convicted by a summary court-martial of the 11 day period of UA. On 14 January 1963, you began a UA that ended on 16 February 1963, a period of about 33 days. On 28 February 1963, you were convicted by a special court-martial (SPCM) of the 33 day period of UA and missing the movement of your unit. The sentence included forfeitures of pay, confinement at hard labor (CHL), and a bad conduct discharge (BCD). Only a portion of the CHL and forfeitures of pay were subsequently approved.

On 11 June 1963, you began a UA that ended on 26 August 1963, a period of about 76 days. On 8 October 1963, you were convicted by a SPCM of the 76 day period of UA. The sentence included CHL, forfeitures of pay, and a BCD. The BCD was subsequently suspended for a period of six months.

On 11 December 1963, you began a UA and were apprehended by the Federal Bureau of Investigation on 12 March 1964, and held pending charges for writing worthless checks. On 8 April 1964, you were convicted in civilian court for fraudulent checks and sentenced to probation, a fine, and full restitution. On 9 April 1964, you were returned to military authorities after being in a UA status for about 120 days. On 18 May 1964, the BCD was vacated and ordered executed. On 9 July 1964, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contentions that personal problems contributed to your misconduct and you served without incident until your period of UA that resulted in your BCD. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your repetitive misconduct. Regarding your contentions, personal problems do not excuse misconduct and the record shows that you were convicted by three courts-martial before your suspended BCD was ordered executed. Therefore, the Board concluded that the discharge was proper as issued and no change is 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.

Your original DD Form 214 that you submitted with your petition is returned as requested.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director

Enclosure