



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

TRG
Docket No: 5292-08
17 December 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 9 December 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.

You enlisted in the Marine Corps for four years on 4 June 1982 at age 19. During the period from 30 June 1983 to 10 June 1985 you received nonjudicial punishment on four occasions. Your offenses were an unauthorized absence of about 18 days and use of marijuana on three occasions. On 29 August 1985 you began a period of unauthorized absence which lasted until you were apprehended on 1 April 1986, a period of about 246 days.

You then requested discharge under other than honorable conditions for the good of the service to avoid trial by court-martial for the 246 day period of unauthorized absence which was approved. However, before you could be discharged the approval for discharge was withdrawn and you were referred to trial by court-martial. This action was apparently taken because an investigation had revealed that some other charges were pending.

A special court-martial convened on 10 June 1986 and convicted you of the 246 day period of unauthorized absence. The court sentenced you to forfeitures of pay, confinement at hard labor for 90 days and a bad conduct discharge. You began appellate leave on 18 June 1986 and remained in that status until the bad conduct discharge was issued on 9 March 1987.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and contention that you were actually discharged in 1985 and all entries in your record after that date are erroneous. The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your disciplinary record and especially your conviction by special court-martial of a lengthy period of unauthorized absence. Further there are no apparent errors in the computation of your service since the time you were an unauthorized absentee and the time you spent on appellate leave is considered to be lost time. 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.

Sincerely,


W. DEAN PFEIFFER
Executive Director