



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

SMS  
Docket No: 6516-08  
19 March 2009

[REDACTED]

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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 18 March 2009. 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 2 November 1971, you enlisted in the Marine Corps at age 17 with parental consent. On 19 December 1971, your father passed away. On or about 13 October 1972, your request to claim your mother as a dependent was approved. During your subsequent enlistment, you stated that you inquired about requesting a hardship discharge during August 1973. Nevertheless, on 5 November 1973, you were honorably discharged from the Marine Corps for immediate reenlistment.

On 6 November 1973, you reenlisted in the Marine Corps at age 19. On 4 February 1974, a psychiatric evaluation stated that you had immature personality traits, but had no psychiatric problems. On 15 March 1974, you had nonjudicial punishment for a 34 day period of unauthorized absence (UA). During the period 21 July to 8 December 1974, you were in a UA status, a period of about 140 days. On 23 January 1975, your commanding

officer responded to a congressional inquiry in which he stated that you had no hardship discharge action pending. On 24 January 1975, you were convicted by a special court-martial of the 140 day period of UA. Your sentence included confinement at hard labor, reduction in rank, forfeitures of pay, and a bad conduct discharge (BCD). On 27 January 1975, you waived the right to request restoration to duty and requested execution of the BCD. However, you were not discharged because your BCD was suspended and you were placed on 12 months of probation. On 14 March 1975, you were counseled on how to submit a request to be considered for a hardship discharge. You subsequently submitted a statement in which you stated in essence that there was not a financial hardship and that you had stopped sending money to your mother. During the period 14 March to 21 July 1975, you were in a UA status, a period of about 68 days. On 13 August 1975, after the BCD was approved at all levels of review, it was vacated and ordered executed as a result of your continued misconduct. On 15 August 1975, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and regret for your misconduct. The Board also considered your contention that personal problems contributed to your misconduct. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your lengthy UA's that continued even after you were placed on probation. Regarding your contention, the record shows that you were informed how to submit a request to be considered for a hardship discharge, but there is no evidence to show that you submitted such a request. Furthermore, personal problems do not excuse misconduct. 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.

The Board noted that as a result of your prior period of honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

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