



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

TJR
Docket No: 8014-08
24 June 2009

[REDACTED]

Dear [REDACTED]

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 17 June 2009. The names and votes of the members of the panel will be furnished upon request. 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 6 November 1969 at age 17. You served without disciplinary infraction until 26 March 1970, when you began a period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 6 August 1971. During this period of UA you were also declared a deserter. On 28 October 1971 you were convicted by special court-martial (SPCM) of the foregoing 477 day period of UA. You were sentenced to confinement at hard labor for three months, reduction to paygrade E-1, and a bad conduct discharge (BCD).

On 2 February 1972 you began a 232 day period of UA that was not terminated until you were apprehended by civil authorities on 24 September 1972. The record does not reflect the disciplinary action taken for this misconduct. Nonetheless, the BCD was approved at all levels of review and on 20 October 1972 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertion that the discharge had been changed as a result of clemency or amnesty. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your repetitive and lengthy periods of UA from the Marine Corps. Accordingly, your application has been denied.

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