



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

CRS  
Docket No: 9397-08  
19 February 2010

[REDACTED]

[REDACTED]

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 6 January 2010. 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.

The Board found that you enlisted in the Marine Corps on 3 January 1969. You received nonjudicial punishment on three occasions and were convicted by a summary court-martial and two special courts-martial. Your offenses included unauthorized absences, drunk and disorderly conduct, asleep on watch, breach of the peace, and assault. On 5 January 1973 you were convicted by civil authorities of rape and multiple counts of kidnapping with intent to commit rape, and sentenced to confinement for 40 years.

On 10 December 1974 an administrative discharge board recommended that you be separated with an undesirable discharge by reason of misconduct due to civil conviction. After review by the discharge authority, the recommendation for separation was approved and you were discharged on 10 February 1975 with an undesirable discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, Vietnam

service, and the unsubstantiated contention the posttraumatic stress disorder caused your misconduct, but found those factors insufficient to warrant recharacterization of your service, given the nature of your offenses. 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