



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

SJN
Docket No: 01398-09
22 December 2009

[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 15 December 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, his 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 Navy and began a period of active duty on 30 December 1964 at age 17. During the period from 14 April 1965 to 25 May 1967 you received four nonjudicial punishments (NJP's) for assault, two periods of unauthorized absence (UA), failure to go to your appointed place of duty, and disobedience. On 30 June 1967, you were convicted by summary court-martial (SCM) of breaking restriction, having an unauthorized liberty pass and pistol custody card, and three instances of disobedience. On 18 July 1967 and 23 October 1968, you were convicted by special court-martial (SPCM) of two periods of UA totaling 289 days, and breaking restriction. As a result of your last SPCM, you were sentenced to confinement at hard labor, a forfeiture of pay, and a bad conduct discharge (BCD). However, the convening authority suspended your BCD for a period of 12 months. On 13 January 1969, you began another period of UA that lasted until 24 February 1969, when you were apprehended by civil authorities for possession of marijuana. On 13 March 1969, you were returned to military authorities, the probationary period was terminated, and you received an other than honorable discharge on 4 June 1969.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and Vietnam service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your four NJP's, conviction by SCM, and especially the two SPCM convictions, one of which was for a lengthy period of UA totaling over nine months. 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