



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

BAN
Docket No: 2688-09
8 December 2009



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 2 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, 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 23 February 1966, and served without disciplinary incident until 18 August 1966, when you received nonjudicial punishment (NJP) for an unauthorized absence (UA) in excess of 18 days. Shortly thereafter, you received the following disciplinary actions: on 28 June 1968, you were convicted at a special court-martial for two specifications of UA, totaling seven and one-half months; and on 2 August 1968, you were convicted at a summary court-martial for UA in excess of 16 days. Additionally, on 7 August 1968, you were apprehended by civil authorities and on 30 October 1968, you were convicted for battery. You were pending a court-martial for further misconduct; however, on 24 January 1969, you requested to be separated for the good of the service (GOS) with an undesirable discharge (UD). At that time, you consulted with counsel and acknowledged the consequences of receiving such a discharge. The

separation authority approved your request and on 14 February 1969, you were separated for the GOS with a UD and an RE-4 reenlistment code. As a result of this action, you were spared the stigma of a court-martial conviction and the penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth and your Vietnam service. Nevertheless, the Board concluded that these factors were not sufficient to warrant a recharacterization of your discharge due to the seriousness of your repetitive misconduct. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. It was also clear to the Board that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. In view of the above, 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