



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

TAL  
Docket No: 02720-09  
29 December 2009

[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 9 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.

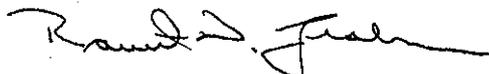
You enlisted in the Marine Corps and began a period of active duty on 17 August 1966 at age 17. On 8 March 1967, you were convicted by special court-martial (SPCM) of a 72 day period of unauthorized absence (UA) from your unit. On 17 April 1967, you were UA from your unit for a period of 64 days until you were apprehended on 20 June 1967. On 21 June 1967, you were UA from your unit for a period of 43 days until you were apprehended on 3 August 1967. On 28 August 1967, you were UA from your unit for a period of 224 days until you were apprehended on 8 April 1968. On 31 May 1968, you were UA from your unit for a period of 466 days; this period began with your escape from the Camp Pendleton brig. On 4 June 1968, you were apprehended by civilian authorities pending charges and on 26 July 1968, you were convicted in civilian court of burglary and served 90 days in sheriff's custody. Based on the information currently contained in your record it appears that you did not return to your command when released by the San Diego County Sheriff but remain UA until you were apprehended on 10 September 1969. On 5 November 1969, you began a period of UA from your unit. On 16 September 1970, your command was notified that you were in the hands of civil

authorities in Mansfield, Ohio and on 25 September 1970, you were convicted of larceny of an automobile and sentenced to one to 20 years in jail. Based on this conviction you were notified that administrative separation action was initiated by reason of misconduct due to a civil conviction and you elected to waive your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 17 November 1970, your commanding officer forwarded his recommendation that you be discharged under undesirable conditions for misconduct. On 1 December 1970, the separation authority directed an undesirable discharge by reason of misconduct. On 11 December 1970 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two civil convictions and periods of UA that totaled more than three years and nine months. Finally, the Board noted that on 12 August 1976 the Presidential Clemency Board issued you a clemency discharge based upon your completion of alternate service pursuant to Presidential Proclamation 4313. However, this recharacterization does not entitle you to benefits administered by the Department of Veterans Affairs (DVA). The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted. 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,



for W. DEAN PFEIFFER  
Executive Director