



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

SJN
Docket No: 10278-09
26 July 2010

[REDACTED]

Dear [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 22 July 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 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 1 October 1965. The Board found that on 7 November 1966 and 29 December 1967, you received nonjudicial punishment (NJP) for making a false official statement and two instances of unauthorized absence (UA) totaling three days. On 4 October 1968, you were convicted by civil authorities of uttering seven bad checks and sentenced to seven months confinement. On 8 November 1968, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. You elected to make a statement, but waived your rights to consult with counsel or have your case heard by a board of officers. You were returned to military control on 9 February 1969. On 14 March 1969, you received a third NJP for four periods of UA totaling 260 days. Your case was forwarded and it was directed that you receive an undesirable discharge by reason of misconduct due to civil conviction. You were so discharged on 17 March 1969.

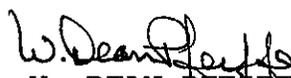
On 16 June 1977, a panel of the Naval Discharge Review Board (NDRB), convened under the Special Discharge Review Program (SDRP) and upgraded your undesirable discharge to a general discharge under special criteria.

It appears that while seeking assistance through the Department of Veterans Affairs (DVA), you were informed that benefits could not be provided to those individuals whose undesirable discharges were upgraded under SDRP. Your discharge was again reviewed, but NDRB declined to take any further corrective action that would make you eligible for veterans' benefits.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, military record, and service in Vietnam. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in three NJP's and conviction by civil authorities of serious 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