



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

TAL  
Docket No: 10686-09  
23 July 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 14 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.

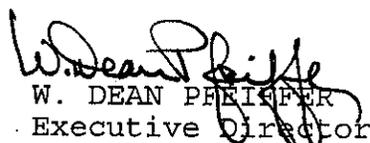
You enlisted in the Marine Corps and began a period of active duty on 20 September 1967 at age 19. On 15 October 1968, you were convicted by special court-martial (SPCM) for unauthorized absence (UA) from your unit for a period of 207 days. From 19 November 1968 until 2 November 1970 you were UA from your unit on four occasions for a period totaling 652 days. On 15 December 1970, you submitted a written request to be discharged for the good of the service to avoid trial by court-martial for the periods of UA. You conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. Subsequently, your commanding officer forwarded his recommendation that you be discharged for the good of the service with an other than honorable (OTH) discharge. On 5 January 1971, you received the OTH discharge for the good of the service. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. You requested a clemency discharge under the provisions of Presidential

Proclamation 4313. You fulfilled the requirement of the Presidential Clemency Program and on 22 October 1975, your clemency discharge certificate was issued.

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 periods of UA that totaled more than two years and four months. Finally, 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,

  
W. DEAN PFEIFFER  
Executive Director