



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

BAN
Docket No: 13048-09
26 August 2010



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 25 August 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 on 1 May 1967, and served without disciplinary incident until 5 July 1969, when you were convicted at a general court-martial (GCM) for two specifications of unauthorized absence (UA) in excess of two and one-half months, and 16 days. As a result, you were awarded a bad conduct discharge (BCD).

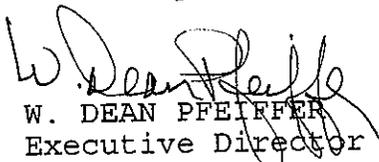
On 11 June 1971, you were separated with a BCD and an RE-4 reenlistment code due to your conviction at a GCM. On 30 June 1977, pursuant to the Presidential Proclamation Act, you agreed to serve alternate service and upon completion you were granted a full pardon by the President of the United States. The Presidential Clemency Board issued you a clemency discharge. Presidential Proclamation 4313 of 16 September 1974, provided for voluntary alternative service under the auspices of the

Reconciliation Service Program and the Selective Service System, for a specified period. Upon completion of the alternative service, former servicemembers would be granted a clemency discharge. This restored civil rights although not veterans' rights or benefits.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and belief that enough time has elapsed to warrant upgrading your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant a change to your clemency discharge because of the seriousness of your misconduct. Further, there is no provision in law or Navy regulations that allows for recharacterization of service due solely to the passage of time. 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