



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

TJR
Docket No: 13129-09
8 July 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 7 July 2010. The names and votes of the members of the panel will be furnished upon request. 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 27 December 1967 at age 18. You served without disciplinary incident until February 1969, when you received nonjudicial punishment (NJP) for misbehavior as a sentinel as evidenced by sleeping on post. About four months later, on 28 June 1969, you were convicted by general court-martial (GCM) of assault with a deadly weapon (you shot another Marine in the head), assault and battery (you struck another Marine in the eye), and two specifications of disobedience (being in an off-limits area and being outside a military area). You were sentenced to confinement at hard labor for two years, forfeiture of all pay and allowances, reduction to paygrade E-1, and a dishonorable discharge (DD). On 17 April 1970 the DD was mitigated to a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review and on 9 October 1970 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also

considered your assertion of suffering from post traumatic stress syndrome (PTSD). Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which caused bodily harm to two of your fellow Marines. Finally, there is no documented evidence in the record, and you submitted none, to support your assertion of suffering from PTSD. Accordingly, your application has been denied.

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