



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

TJR  
Docket No: 13178-09  
16 September 2010

[REDACTED]

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 14 September 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 8 July 1975 at age 19 and served for about three months without disciplinary infraction. However, on 15 October 1975 you began a period of unauthorized absence (UA) that was not terminated until 26 May 1976. During this period of UA you were declared a deserter. Shortly thereafter, on 5 June 1976, you began another period of UA that was not terminated until 15 June 1976. On 19 July 1976 you submitted a written request for an other than honorable discharge for the good of the service to avoid trial by court-martial for the foregoing periods of UA totalling 234 days. On 27 July 1976 your request was denied and the UA charges were referred for trial by court-martial.

On 5 August 1976 you were convicted by special court-martial (SPCM) of two periods of UA totalling 234 days and sentenced to confinement at hard labor for two months, a \$480 forfeiture of pay, and a bad conduct discharge (BCD). On 4 October 1976 you submitted a written request for immediate execution of the BCD, stating in part, that you felt that you could no longer be of

further value to the Marine Corps, and that you had a job waiting for you upon your release from duty. Subsequently, the BCD was approved at all levels of review and on 8 April 1977 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, explanation regarding the circumstances which resulted in your discharge, and desire to upgrade your discharge. It also considered your assertion of being provided with inadequate counsel. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive and lengthy periods of UA from the Marine Corps. Finally, there is no evidence in the record, and you submitted none, to support your assertion of being provided with and/or represented by inadequate counsel. 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