



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

TAL  
Docket No: 058-10  
12 October 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 6 October 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 28 April 1954 at age 19. You were convicted by summary court-martial (SCM) on two occasions for assault. You received nonjudicial punishment (NJP) on seven occasions for insubordinate conduct toward a noncommissioned officer, disobeying lawful orders, unauthorized absence (UA) from your unit, UA from your appointed place of duty, and destruction of government property. On 3 February 1956, you were convicted by general court martial (GCM) of assault with a dangerous weapon, insubordinate conduct toward a noncommissioned officer, threatening to kill and failure to obey a lawful order. The sentence imposed was 18 months confinement, forfeiture of all pay and allowances and a dishonorable discharge (DD).

On 11 April 1956, you were diagnosed with an emotional instability reaction because of severely disturbed behavior, crying, tension, potential impulsive, violent behavior and general unfitness for confinement. It was the opinion of the medical board that you were mentally competent and responsible for the particular offenses you committed, and competent to stand trial, but disciplinary action in the form of confinement would be likely to have a deleterious effect on your health and would

not be corrective or lead to a better service adjustment. On 29 June 1956, the Judge Advocate General of the Navy remitted the unexecuted portion of the sentence relating to confinement and forfeitures, and you received the DD after appellate review was complete.

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 a seven NJPs, two SCMs and a GCM conviction. 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