



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

TJR
Docket No: 291-10
13 October 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 6 October 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 10 August 1966 at age 19 and began a period of active duty. The following month, on 1 and 5 September 1966, you received nonjudicial punishment (NJP) for failure to obey a lawful order and absence from your appointed place of duty. On 27 April and again on 30 August 1967 you were convicted by special court-martial (SPCM) of two periods of unauthorized absence (UA) totalling 145 days.

On 19 March 1968 you were convicted by general court-martial (GCM) of desertion as a result of 76 day of UA. You were sentenced to confinement at hard labor for five years, forfeiture of all allowances and pay, and a dishonorable discharge (DD). However, the DD was subsequently remitted to a bad conduct discharge (BCD) and the confinement was remitted to 15 months. On 19 July 1968 you submitted a written request for clemency, specifically, a reduced forfeiture of pay and confinement, and to be issued a general discharge. However, the BCD was approved at all levels of review, and on 14 February 1969, you were issued a BCD.

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 that you believed that you and your brother should not have received orders to Vietnam at the same time. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct and 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. 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