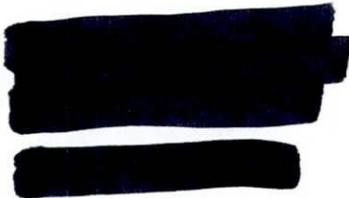




DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TAL  
Docket No: 1386-10  
17 November 2010



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 10 November 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 15 June 1967 at age 19. On 12 March 1968, you were convicted by summary court-martial (SCM) of three instances of failure to obey a lawful order and communicating a threat to kill. On 10 September 1968, you were convicted by general court-martial of insubordinate conduct toward a superior noncommissioned officer and willfully disobeying a superior officer. You were sentenced to one year confinement, forfeiture of pay and a bad conduct discharge (BCD). The convening authority suspended the forfeitures and the BCD for 12 months. On 9 February 1969, you were convicted by SCM of unauthorized absence (UA) from your unit for a period of six days. On 22 October 1969, you received nonjudicial punishment (NJP) for UA from your appointed place of duty. On 14 January 1970, you were again convicted by SCM of a 44 day period of UA from your unit. On 12 February 1970, the convening authority vacated the suspended BCD. On 24 February 1970 you were so discharged. You requested a clemency discharge under the provisions of Presidential Proclamation 4313. You fulfilled the requirement of the Presidential Clemency Program and on 23 January 1976, your clemency discharge certificate was issued.

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 one NJP, three SCMs and one GCM. The Board noted that although the BCD was suspended for 12 months, on 12 February 1970 this suspension was vacated due to your continued misconduct. Finally, the Presidential Clemency Board issued you a clemency discharge based upon your completion of alternate service pursuant to Presidential Proclamation 4313. However, this recharacterization does not entitle you to benefits administered by the Department of Veterans Affairs (DVA). The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted. 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