



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

REC
Docket No: 04417-10
2 February 2011



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 2 February 2011. 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 13 January 1969, at age 18. On 2 March 1970, you surrendered to civilian authorities for a charge of first degree murder. On 15 May 1970, you were convicted by a civilian criminal court of manslaughter. You were sentenced to confinement between three and 15 years. You were notified that your command was processing you for administrative separation with undesirable discharge (UD) due to misconduct. You exercised your procedural right to have your case heard by an administrative discharge board (ADB). On 12 February 1971, your case was heard by an ADB, which voted unanimously in favor of a UD due to misconduct. Your commanding officer concurred with the ADB's recommendation and forwarded his recommendation that you receive a UD by reason of misconduct. On 24 March 1971, you received the UD due to misconduct. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the fact that you surrendered to civilian authorities. Nevertheless, the Board concluded these factors

were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in a civilian criminal conviction and confinement. 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