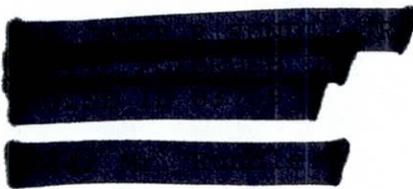




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TAL
Docket No: 8284-10
15 April 2011



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 13 April 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 and began a period of active duty on 20 February 1973 at age 18. On 16 September 1973, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit for a period of 10 days. On 17 September 1973, you were in a UA status from your unit until you were apprehended on 16 November 1973 and detained by civil authorities on a charge of automobile grand theft. On 14 December 1973, you were convicted in civilian court of automobile grand theft and sentenced to four months confinement in the Riverside County jail, Riverside, California, and to serve three years probation.

On 27 February 1974, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (civilian conviction). You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 21 March 1974, you received the OTH discharge for misconduct due to your civilian conviction.

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 an NJP and a civil conviction. Finally, members of the armed services who are subject to conviction by civil authorities and if incarcerated may be discharged. 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 PFEIFTER
Executive Director