



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

TJR
Docket No: 11639-10
18 August 2011

[REDACTED]

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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 16 August 2011. 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 20 May 1966 at age 19 and served without disciplinary infraction until 20 January 1967 when you were apprehended by civil authorities and charged with possession of a stolen vehicle. Subsequently, you were released on bond and returned to military authorities. On 22 March 1967 you began a period of unauthorized absence (UA) after being apprehended by civil authorities and charged with transportation of a stolen vehicle. On 25 May 1967 you were convicted by civil authorities of the foregoing charge and sentenced to imprisonment under the Youth Corrections Act.

On 27 October 1967, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to the civil conviction. After waiving your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB),

your commanding officer recommended an undesirable discharge by reason of misconduct due to civil conviction. The discharge authority approved this recommendation and on 20 March 1968, while in the custody of civil authorities, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, desire to upgrade your discharge, and the passage of time. It also considered your assertions of serving honorably, not being afforded legal assistance or your legal rights, and being unaware of breaking state laws. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in a civil conviction. The Board noted that the record clearly shows that you were given an opportunity to defend yourself, but waived your procedural right to consult with legal counsel and to present your case to an ADB. Further, no discharge is automatically upgraded due solely to the passage of time or an individual's good post service conduct. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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