



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

TAL
Docket No: 137-11
29 September 2011

[REDACTED]

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 28 September 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 June 1969 at age 21. You received nonjudicial punishment (NJP) on four occasions for insubordinate conduct toward a noncommissioned officer, and three instances of unauthorized absence (UA) from your unit that totaled a period of nine days. On 25 August 1972, you were convicted by special court-martial (SPCM) of three instances of UA from your unit for a period totaling 38 days. The sentence imposed was hard labor without confinement for 30 days, restriction for 30 days, reduction in paygrade and a forfeiture of pay. On 15 September 1972, you were again UA from your unit until you surrendered on 8 January 1975, a period of 845 days. You submitted a written request to be discharged for the good of the service to avoid trial by court-martial for the period of UA. You conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. On 8 January 1975 the separation authority approved and directed an other than honorable (OTH) discharge for the good of the service and you were so discharged. On 19 December 1975, your enrolment in the Reconciliation Service

Program, in accordance with your agreement of 8 January 1975, was terminated due to your failure to complete the required period of alternate service.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and Vietnam service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in over two years and five months of UA from your unit and request for discharge to avoid trial. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and should not be permitted to change it now. Finally, the Board noted your failure to complete the agreed upon 12 months of alternate service. 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