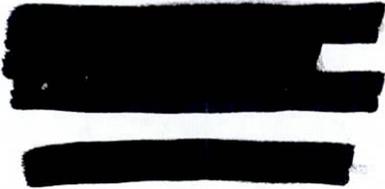




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

REC
Docket No: 03551-11
21 February 2012



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 15 February 2012. 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 7 October 1969, at age 20. On 3 April 1970, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status for nine days. On 30 April 1970, you received NJP for two incidents of being absent from your appointed place of duty, and failure to obey a lawful order. On 1 July 1970, you received NJP for being absent from your appointed place of duty, and failure to obey a lawful order. On 1 October 1970, you received NJP for being UA for four days. On 12 February 1971, you were charged with impersonating a staff noncommissioned officer, two incidents of disobeying a lawful order, and being disrespectful toward a

senior noncommissioned officer. You were referred to trial by court-martial. However, you submitted a request for a good of the service discharge in order to avoid trial by court-martial for these charges. Prior to submitting this request for discharge, 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. However, your chain of command reviewed your entire case and decided to recommend you for a general discharge. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 16 April 1971, you received NJP for being absent from your appointed place of duty. On 26 April 1971, your commanding officer forwarded his recommendation that you receive a general discharge by reason of unfitness. However, your misconduct continued and on 1 May 1971, you received NJP for disobeying a lawful order. On 7 May 1971, the discharge authority directed a general discharge by reason of unfitness. On 19 May 1971, 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 and Vietnam service. However, the Board found that these factors were not sufficient to warrant any change in your character of service, given your record of six NJP's for misconduct. The Board also noted that you were fortunate to receive a general discharge since a separation under other than honorable conditions is often directed when an individual is found to have committed misconduct. The Board also noted that you waived your procedural right to an ADB, your best opportunity for retention or a better characterization of 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