



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

TAL  
Docket No: 4071-11  
19 January 2012

[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 12 January 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 30 November 1973, at age 17. On 11 April 1974, you received nonjudicial punishment (NJP) making a false official statement. On 24 July 1974, you entered an unauthorized absence status from your unit. On 3 September 1974 you were apprehended by civil authorities in New Bern, North Carolina. On 8 January 1975 you were convicted by the Craven County Superior Court of larceny, having no operator's license, sodomy and assault with a deadly weapon. You were sentenced to two years confinement. On 22 April 1975, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 19 June 1975, the ADB found that you committed misconduct and recommended that you be separated with an OTH discharge. On 12 December 1986 the separation authority agreed with the recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct (civil conviction), and on 14 July 1975, you were so discharged.

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 convicted by civil authorities may be discharged for misconduct. 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