



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

TAL  
Docket No: 4082-11  
27 January 2012

[REDACTED]

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 25 January 2012. 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 and began a period of active duty on 27 December 1966 at age 20. You received nonjudicial punishment (NJP) on four occasions for failure to obey a lawful order, unauthorized absence (UA) from your unit for a period of two days, failure to go to your appointed place of duty, and sleeping on post. On 22 July 1968, you were UA from your unit while in Toulon, France, and on 26 July 1968 you missed your ship's movement. On 9 August 1968, your command was notified by the American Consulate in France, that you were admitted to a hospital with a claim of loss of memory due to a head injury. On 12 August 1968, you were returned to military control and transported to Quonpt, Rhode Island, where you began a period of UA until your apprehension on 4 August 1969, in Detroit, Michigan, a period of 349 days. On 12 May 1970, you submitted a written request for an other than honorable (OTH) discharge in order to avoid trial by court-martial for the forgoing periods of UA. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of

accepting such a discharge. Your request was granted and the commanding officer directed your OTH 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 14 May 1970 the separation authority approved your request for discharge. On 15 May 1970 you were separated with a discharge under OTH conditions.

The Board, in its review of your entire record and application carefully weighed all potentially mitigating factors, such as your youth and overall record of 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 four NJPs, and periods of UA totaling over one year and five months, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Further, the Board 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, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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