



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

TJR
Docket No: 5919-12
22 June 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 19 June 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You entered active duty in the Marine Corps on 1 December 1954. The Board found that during the period from 30 August 1955 to 4 September 1956 you received nonjudicial punishment (NJP) on two occasions and were convicted by summary court-martial (SCM) and special court-martial (SPCM). Your offenses were three periods of unauthorized absence (UA) totalling 38 days and being found with an unclean rifle.

The Board also found that on 13 June 1957 you were again convicted by SCM of scratching the back of your neck with a pistol and wrongful possession, with intent to deceive, of an unauthorized liberty pass. You were sentenced to restriction for 30 days, a \$50 forfeiture of pay, and reduction to paygrade E-1, which was suspended for six months. Shortly thereafter, on 16 September and again on 5 November 1957, you received NJP for absence from your appointed place of duty and being found with an unclean rifle. Subsequently, you received a general characterization of service on 28 November 1958.

The Board, in its review of your entire record and application carefully weighed all potentially mitigating factors to include your desire to remove the SCM convened on 13 June 1957 and be reinstated in paygrade E-2. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case. Further, the Board has no authority to consider contentions pertaining to improprieties in courts-martial and must limit its review to determining whether the sentence should be modified as a matter of clemency. With that being said, the Board concluded that your commanding officer's decision to convene all of the courts-martial and the sentences thereto, were appropriate, and that the imposition of NJPs for your misconduct was also appropriate. 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