



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

SJN
Docket No: 02151-13
9 July 2013

[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 25 June 2013. 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.

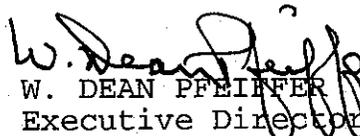
You reenlisted in the Marine Corps on 19 July 1968 after more than three years of prior honorable service. The Board found that on 18 September 1968, you were convicted by summary court-martial (SCM) of two days of unauthorized absence (UA). On 24 March 1969, you were convicted by special court-martial (SPCM) of 24 days of UA. On 29 July 1970, you submitted a written request for a good of the service discharge in order to avoid trial by court-martial for two periods of UA totaling 181 days. 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. Your request for discharge was granted and on 11 August 1970, you received an undesirable discharge for the good of the service in lieu of trial by court-martial. 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 29 August 1977, a panel of the Naval Discharge Review Board (NDRB) convened under the Special Discharge Review Program (SDRP) upgraded your undesirable discharge to a general discharge under the criteria of SDRP. You are advised that Department of Veterans Affairs (DVA) benefits are not to be provided to those individuals whose undesirable discharges were upgraded under SDRP.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of prior honorable service, Vietnam combat service, issues you are having with the DVA and desire to upgrade your characterization of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your SCM and SPCM convictions of UA, charges being preferred to a court-martial for periods of UA totaling six months, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. Finally, the Board noted that you received a general discharge under the SDRP. However, neither the DVA nor the Department of Defense considers a general discharge issued by the SDRP to entitle you to any benefits denied by the original discharge. The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted. If you have been denied benefits, you should appeal that denial under procedures established by the DVA. 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