



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

ELP
Docket No. 1963-01
6 August 2001

[REDACTED]

Dear [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 Navy Records, sitting in executive session, considered your application on 1 August 2001. 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 enlisted in the Marine Corps for three years on 31 May 1975 at age 19. You were advanced to PFC (E-2) and served for nearly six months without incident. However, during the 11 month period from November 1975 to October 1976 you received two nonjudicial punishments (NJP) for two periods of unauthorized absence (UA) totalling about 29 days.

On 3 March 1977 you were convicted by special court-martial of a 62-day period of UA, from 13 December 1976 to 13 February 1977. You were sentenced to confinement at hard labor for two months, forfeitures of \$240 per month for two months, reduction in rank to PVT (E-1), and a bad conduct discharge. On 1 April 1977 the convening authority approved the sentence but that portion adjudging confinement in excess of 30 days and forfeitures in excess of \$240 for one month was remitted. You were placed on appellate leave on 29 April 1977 and the Navy Board of Review

affirmed the findings and the sentence on 15 June 1977. Clemency was denied and you received the bad conduct discharge on 18 September 1981.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been nearly 20 years since you were discharged. The Board considered your contention that when you enlisted you were a 19-year old going on 16 and you regret the actions which led to your discharge. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of two NJPs and a special court-martial conviction. Your conviction and discharge were effected in accordance with applicable law and regulations and the Board found no basis for recharacterizing your service. The Board thus concluded that the discharge was proper and no change is warranted. 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