



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

TRG
Docket No: 3947-01
17 October 2001

[REDACTED]

Dear [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 16 October 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 on 12 January 1979 at age 19. During 1979 you received nonjudicial punishment on three occasions. Your offenses were eight periods of unauthorized absence totaling about 74 days and larceny. On 18 March 1980 you were convicted by a special court-martial of an unauthorized absence of about 63 days, breaking restriction and altering an identification card. The court sentenced you to 45 days of hard labor without confinement.

Based on the foregoing record, you were processed for an administrative discharge by reason of misconduct. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board. On 8 May 1980 the Assistant Secretary of the Navy approved the recommendation of your commanding officer and the Bureau of Naval Personnel that you be discharged under other than honorable conditions.

However, while the administrative discharge recommendation was being processed, you began another series of unauthorized absences. During the period 25 April to 1 July 1980 you were an unauthorized absentee on three occasions totaling about 35 days.

On 5 July 1980 you began a another period of unauthorized absence. Five days later, you were apprehended by civil authorities. You were subsequently convicted of the theft of an automobile and were sentenced to three years probation. You were returned to the Marine Corps on 12 February 1981, a total period of absence of about 217 days. A special court-martial convened on 27 March 1981 and convicted you of the foregoing four periods of unauthorized absence totaling about 262 days. The court sentenced you, as mitigated, to 45 days confinement at hard labor and a bad conduct discharge. The bad conduct discharge was issued on 27 July 1982.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth, limited education and your contention, in effect, that drug and alcohol abuse led to your misconduct. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your multiple and lengthy periods of unauthorized absence and other misconduct. There is no evidence in the record, and you have submitted none, to show that drug and alcohol abuse was a factor in your case. However, even if true, the regulations state that alcohol and drug abuse do not excuse misconduct, and disciplinary action is appropriate in such cases. The Board concluded that the discharge was proper as issued 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