



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

TJR
Docket No: 4036-01
21 November 2001

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 Naval Records, sitting in executive session, considered your application on 14 November 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, and applicable statutes, regulations, and policies. The Board was unable to obtain your service record and conducted its review based on the decisional document prepared by the Naval Discharge Review Board.

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.

The Board found you enlisted in the Marine Corps on 30 December 1960 at the age of 18. Your record reflects that on 10 May 1961 you were convicted by summary court-martial (SCM) of a 20 day period of unauthorized absence (UA) and sentenced to confinement at hard labor for 30 days, a portion of which was suspended, and a \$50 forfeiture of pay. On 29 November 1961 you were convicted by special court-martial (SPCM) of a 42 day period of UA and disobedience. You were sentenced to confinement at hard labor for four months and a \$200 forfeiture of pay.

Your record further reflects that on 16 March 1962 you began a period of UA that was not terminated until 27 April 1962 when you were apprehended by civil authorities and charged with interstate transportation of a stolen automobile. On 8 May 1962 you were convicted by of this offense in civil court and sentenced to confinement for four to six years in accordance with the Federal Youth Corrections Act.

On 1 June 1962, while in custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At that time you waived your rights to consult with legal counsel, present your case to an administrative discharge board, or submit a statement in rebuttal to the discharge. On 2 July 1962 your commanding officer recommended an other than honorable discharge by reason of misconduct. On 6 July 1962 the discharge authority approved the foregoing recommendation and directed an other than honorable discharge by reason of misconduct due to conviction by civil authorities, and on 10 August 1962 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your 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