



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

TJR  
Docket No: 4560-01  
28 December 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 Naval Records, sitting in executive session, considered your application on 11 December 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 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 8 January 1968 at the age of 23. Your record reflects that you served for a year and three months without disciplinary incident, but on 20 March 1969, you received nonjudicial punishment (NJP) for failure to obey a lawful order and were awarded a reduction to paygrade E-1 and restriction for 30 days. On 14 June 1969 you received NJP for disrespect and drunk and disorderly conduct. The punishment imposed was a \$60 forfeiture of pay and extra duty for 20 days. On 21 July 1969 you were convicted by summary court-martial (SCM) of two specifications of failure to obey a lawful order and sentenced to restriction for 20 days and a \$50 forfeiture of pay. You received your third NJP on 13 August 1969 for failure to obey a lawful order and were awarded a \$25 forfeiture of pay.

Your record also reflects that on 10 February 1970 you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for two specifications of absence from your appointed place of duty and two specifications of failure to obey a lawful order. Your record shows that prior to submitting

this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your request was granted and your commanding officer was directed to issue you an other than honorable discharge by reason of the good of the service. 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 13 March 1970 you were issued an other than honorable discharge.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth and immaturity, and your contention that your ability to serve was impaired by racial discrimination. The Board also considered your contention that you believe that under today's standards you would not receive a discharge other than honorable conditions. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given the seriousness of your repetitive misconduct and your request for discharge to avoid trial. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied.

The Board noted that you should contact Headquarters, United States Marine Corps, 3280 Russell Road, Quantico, VA 22134-5103 to request the medals and ribbons listed on your Certificate of Discharge or Release from Active Duty (DD Form 214). Further, the notation on your DD Form 214 does not show that you received a Good Conduct Medal, but only sets the starting date for the next period for that award.

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