



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

TJR
Docket No: 4596-00
27 September 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 25 September 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 3 October 1966 at the age of 17. Approximately four months later, on 27 February 1967, you received nonjudicial punishment (NJP) for a six day period of unauthorized absence (UA). The punishment imposed was correctional custody for 10 days, which was suspended for two months, and a \$45 forfeiture of pay. On 31 May 1967 you were convicted by special court-martial (SPCM) of a 24 day period of UA and altering an identification card. You were sentenced to reduction to paygrade E-1, confinement at hard labor for four months, and a \$264 forfeiture of pay. On 6 December 1967 you were again convicted by SPCM of three periods of UA totalling 62 days and two specifications of breaking restriction. You were sentenced to a suspended confinement at hard labor for six months, \$360 forfeiture of pay, and a bad conduct discharge (BCD). However, the BCD was subsequently suspended. On 31 January 1968 you received NJP for a 14 day period of UA and were awarded a \$20 forfeiture of pay. On 4 April 1968 you were convicted by summary court-martial (SCM) of two periods of UA totalling 39 days. You were sentenced to confinement at hard labor for 30 days and a \$65 forfeiture of pay.

Your record also reflects that on 28 August 1969 you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for a 69 day period of UA and absence from your appointed place of duty. 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, on 24 September 1969, your request was granted and your commanding officer was directed to issue you an undesirable 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 30 October 1969 you were issued an other than honorable discharge.

On 20 August 1977, in accordance with the Special Discharge Review Program (SDRP), the characterization of your discharge was changed to general under honorable conditions. However, this change does not entitle you to any benefits administered by the Department of Veterans Affairs.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, combat service, and your contention that corrective action should be taken so that you may receive veterans benefits. However, these factors and contention were not sufficient to warrant further recharacterization of your discharge because of the seriousness of your frequent and lengthy periods of UA. The Board noted that your misconduct continued even after the BCD was suspended and you were given a chance to earn an honorable or general discharge. Further, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved, and since your discharge was later recharacterized in accordance with the SDRP. Given 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