



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 4690-99

30 June 2000

[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 28 June 2000. 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.

The record reflects that you enlisted in the Marine Corps on 2 November 1964 for four years at age 20. The medical record reflects that you were referred for a psychiatric evaluation due to your having difficulty in getting along and doing poorly in training. You reported to the examining psychiatrist that you were still working through the loss of your father, who you had found dead in the garage at home shortly before enlisting. The psychiatrist opined that although you continued to be preoccupied with your father's death there was no indication of serious depression. He further opined that there was some emotional instability, but he did not believe it would prevent you from completing recruit training. You were encouraged to seek further help if you felt the need.

Thereafter, you were advanced to PFC (E-2) and continued to serve without further incident until 25 May 1965, when you requested to see a psychiatrist because you found yourself unable to adequately perform your job because of frequent episodes of

depression and crying. The division psychologist noted that you continued to be preoccupied by your father's suicide. No intervention was required and you were returned to duty.

The record reflects that you reported to duty in Vietnam on 21 December 1965 and were medically transferred on or about 11 March 1966 for anxiety reaction and battle fatigue. You were admitted to the Naval Hospital, Philadelphia on 15 March 1966. The medical care summary noted that you were transferred from Vietnam because of recurrent episodes of fever and a psychological problem consisting of combative behavior and grief following the death of your buddy on the battlefield. The fever episodes began in October 1965 and lasted 1-3 days. On 21 April 1966 you were diagnosed as having hookworm but were returned to duty. Thereafter, you were advanced to LCPL (E-3).

On 31 August 1966, the commanding officer advised the Commandant of the Marine Corps (CMC) that you said you stepped on a punji stick on 26 March 1966 during an operation in Vietnam, had received the Purple Heart Medal. However, there were no entries in the service record to show this award. CMC responded that its records failed to show you were wounded in action against insurgent communist forces, and that the Purple Heart Medal was not authorized for a diagnosis of combat fatigue. On 17 February 1967 a second request for the Purple Heart Medal was submitted. Again, CMC responded that you were not entitled to the Purple Heart Medal. Further, the casualty section at Headquarters, Marine Corps advised the Decorations and Medals Branch that records at the Bureau of Medicine and Surgery failed to show that you were wounded by hostile enemy action.

On 5 March 1967 you were taken to an emergency room with a "sick slip", stating you had suffered an anxiety reaction. You reported that you were brought to the hospital by the local police. You claimed that while at a drive-in you started seeing the face of your buddy who was killed in Vietnam. It was noted by the examining doctor that this was a persistent problem which should be resolved. The medical record indicates that you were to be seen by a psychiatrist, but no such evaluation is on file in the medical record.

You then served without further incident, were advanced to CPL (E-4). On 4 January 1968 you were honorably discharged in order that you could immediately reenlist, and you did so on 5 January 1968 for three years. During the nine month period from August 1968 to April 1969 you received two nonjudicial punishments and were convicted by a summary court-martial. Your offenses consisted of two instances of failure to obey a lawful order, wrongful appropriation, having a false military identification card showing the rank of SGT (E-5), a two day period of

unauthorized absence, wearing the insignia of a SGT, and wearing the Purple Heart Ribbon and the Bronze Star Ribbon with combat V. On 8 April 1969, prior to your summary court-martial conviction, you were admitted for acute anxiety reaction and were diagnosed with an emotionally unstable personality.

On 18 June 1969 you were recommended for an undesirable discharge by reason of unfitness due to an established pattern of failure to pay just debts and frequent involvement of a discreditable nature with military authorities. The commanding officer noted in his recommendation that you were pending trial by special court-martial for writing seven bad checks totalling \$230.22. You received your third NJP on 27 June 1969 for failure to go to your appointed place of duty and failure to obey a lawful order. A staff judge advocate reviewed the discharge proceedings and found them to be sufficient in law and fact. The discharge authority directed an undesirable discharge by reason of unfitness on 1 July 1969. You were so discharged on 15 July 1969.

In its review of your application the Board conducted a careful search of your service and medical records for any evidence showing you were wounded in action while serving in Vietnam. However, no evidence could be found. The Board noted that after you were transferred from Vietnam, your command submitted a request to CMC to see if you were reported to have been wounded in action on 26 March 1966. Neither, CMC or the Bureau of Medicine or Surgery had any record of you being wounded. The Board noted that on 26 March 1966 you had already been medically transferred and admitted to a naval hospital. Absent medical documentation showing treatment of wounds received in combat or statements from credible eye witnesses who can attest to the facts and circumstances of how you were wounded, the Board found no basis to award you the Purple Heart Medal.

The Board noted that you reenlisted about ten months prior to the expiration of your enlistment. However, it appeared to the Board that since you served more than eight months beyond the date your first enlistment would have expired, you should be entitled to veterans benefits for your first period of honorable service. If you have not applied to the Department of Veterans Affairs, you should do so. The Board also noted that you were seen on numerous occasions for psychological problems. However, three NJPs, a summary court-martial conviction, and a pending special court-marital during your second period of service led to a discharge under other than honorable conditions. You have provide no probative medical evidence to support your statement that you have been diagnosed with post traumatic stress disorder. 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