



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

TJR
Docket No: 2772-02
6 November 2002

[REDACTED]

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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 5 November 2002. 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.

You reenlisted in the Marine Corps on 16 October 1967 at the age of 17. On 9 February 1968 you received nonjudicial punishment (NJP) for urinating on the deck of your ship and were awarded a \$15 forfeiture of pay. On 21 August 1968 you received NJP for an 11 day period of unauthorized absence (UA) and were awarded extra duty and restriction for 14 days.

On 2 April 1969 you were convicted by summary court-martial (SCM) of a 30 day period of UA and disobedience. You were sentenced to confinement at hard labor for 30 days and reduction to paygrade E-3. On 5 December 1969 you received your third NJP for failure to obey a lawful order. The punishment imposed was restriction for 14 days and a \$20 forfeiture of pay.

On 23 January 1970 you were convicted by SCM of disobedience and failure to obey a lawful order. You were sentenced to confinement at hard labor for 30 days, reduction to paygrade E-1, and a \$80 forfeiture of pay, which was suspended for six months. Approximately a month later, on 24 February 1970, you were

notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military or civilian authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board. Subsequently, your commanding officer recommended an undesirable discharge by reason of misconduct. On 13 March 1970 this recommendation was approved and the discharge authority directed an undesirable discharge by reason of unfitness. On 20 March 1970 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 and your contention that you were told that your discharge would be upgraded five years after your separation. It also considered your contention that your discharge was too harsh for an honest oversight. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in five disciplinary actions. Further, no discharge is upgraded simply due to the passage of time. 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