



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

TRG
Docket No: 6284-02
2 December 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the 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 26 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps Reserve on 27 September 1966 at age 19 and reported for extended active duty on 3 November 1966. During 1967, you received nonjudicial punishment on two occasions and were convicted by a summary court-martial. Your offenses were two periods of unauthorized absence totaling about 16 days and wrongful possession of a liberty pass.

A special court-martial convened on 19 January 1968 and convicted you of an unauthorized absence of about 61 days. The court sentenced you to forfeiture of \$40 pay per month for six months, confinement at hard labor for six months and a bad conduct discharge. A portion of the forfeitures and the bad conduct discharge were suspended for a probationary period of six months, and you were restored to duty on 8 March 1968. That same day you began another period of unauthorized absence that lasted until you surrendered on 25 April 1968. A special court-martial convened on 8 May 1968 and convicted you of the foregoing 46 day period of unauthorized absence. The court sentenced you to forfeitures of \$40 pay per month for six months, confinement at hard labor for six months and a bad conduct discharge. On 5 August 1968 you elected to waive the right to request restoration

to duty. The bad conduct discharge was issued on 14 January 1969.

Subsequently, you were granted a clemency discharge contingent upon completion of three months alternate service. There is no evidence in the record that you actually completed that service.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and the fact that you were issued a clemency discharge. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given the frequency of your misconduct and especially your violation of probation with another lengthy period of unauthorized absence. The clemency action taken in your case essentially means that your misconduct has been excused. However, it does not change the facts of the underlying record. The Board concluded that the 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

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The Disabled American Veterans