



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

TJR
Docket No: 7839-01
15 May 2002

[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 14 May 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 enlisted in the Marine Corps Reserve on 20 February 1973 and on 10 August 1973, at the expiration of your enlistment, you were released under honorable conditions. You reenlisted in the Marine Corps on 19 March 1974 at the age of 18. On 2 July 1974 you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totalling 30 days. The punishment imposed was extra duty for 45 days.

Your record further reflects that on 9 January 1975 you were convicted by civil authorities of possession of marijuana and sentenced to confinement for 18 to 24 months, however, this sentence was suspended for two years. On 20 February 1975 you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). Shortly thereafter, on 26 February 1975, you began a 49 day period of unauthorized absence (UA) which was not terminated until 15 April 1975. The disciplinary action taken, if any, for this misconduct is not in

the record. On 28 May 1975 an ADB recommended an undesirable discharge by reason of misconduct due to civil conviction. Subsequently, the discharge authority approved the recommendation of the ADB and directed an undesirable discharge by reason of misconduct. On 30 May 1975 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 having family problems while serving in the military. The Board also considered your contention that you are now homeless and in need of veteran's benefits. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge given your repetitive misconduct in both the military and civilian communities. Further, the Board noted that even after being notified of the undesirable discharge, your misconduct continued as evidenced by the 49 day period of UA. 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