



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

ELP  
Docket No 8717-01  
23 May 2002

[REDACTED]

[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 Navy Records, sitting in executive session, considered your application on 22 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 7 April 1970 for four years at age 17. During the 20 month period from September 1970 to May 1972 you received two non-judicial punishments (NJP) for failure to obey a lawful order and absence from guard duty without authority.

On 5 July 1972 you were reported in an unauthorized absence (UA) status and remained absent until you were apprehended by military authorities on 17 August 1972.

On 24 August 1972 you submitted a request for an undesirable discharge for the good of the service in lieu of trial by court-martial for the foregoing 44-day period of UA. 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. A review of your request by the staff judge advocate

(SJA) found it to be sufficient in law and fact and noted that on two occasions, your counsel attempted to persuade you not to request an undesirable discharge, but you remained adamant in your request. The discharge authority directed an undesirable discharge on 11 September 1972. However, on 22 September 1972 you received a third NJP for disrespect towards an officer. You received an undesirable discharge for the good of the service on 28 September 1972.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, regret for the actions which led to your discharge, and the fact that it has been nearly 30 years since you were discharged. The Board noted your contentions that your biggest mistake was requesting an undesirable discharge and that you were told that after six months, you could get it changed to a general discharge. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of three NJPs and the fact that you accepted discharge for a 44 day period of UA. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. 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