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

CRS
Docket No: 5223-09
24 August 2010

[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 4 August 2010. 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 Board found that you enlisted in the Marine Corps on 27 June 1978. You were absent without authority from 31 March 1981 to 14 April 1987. On 2 June 1987 you submitted a written request for discharge for the good of the service in lieu of trial by court-martial for that absence. Prior to submitting this request you conferred with a qualified military lawyer who advised you of your rights and warned of the probable adverse consequences of receiving a discharge under other than honorable conditions. Your request was approved by the discharge authority; and you received a discharge under other than honorable conditions.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your contention that you only had three months to serve. It found your contention insufficient to warrant corrective action in your case.

The Board concluded that your characterization of service was proper, given your lengthy period of unauthorized absence. In addition, the Board believes that considerable clemency was

extended to you when your request for discharge was approved since, by this action, you avoided the possibility of a Federal conviction, confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain when your request for discharge was granted, and you should not be permitted to change it now.

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

W. DEAN PFEIFFER
Executive Director