



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

CRS
Docket No: 7358-09
14 September 2010

[REDACTED]

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This is in reference to your request for further consideration of 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 28 July 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 reenlisted in the Marine Corps on 15 February 1973. You received nonjudicial punishment and were convicted by a special court-martial for offenses that included two periods of unauthorized absence, willful disobedience of a lawful order, violation of a lawful general regulation, use of provoking words, and leaving place of duty without authority.

On 25 February 1977 a general court-martial convened and found you guilty of attempting to sell marijuana, conspiracy to possess and sell marijuana, possession of marijuana, transfer of marijuana, and endeavoring to create false information. The court sentenced you to forfeiture of all pay and allowances, reduction in rate, and a bad conduct discharge. You received the bad conduct discharge on 1 December 1977.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, overall service record, passage of time, and the contention that

posttraumatic stress disorder caused your misconduct. The Board concluded that those factors were insufficient to warrant recharacterization of your discharge, given the nature and severity of your offenses. Further, there is no credible evidence to show that you suffered from a mental disorder while in the Marine Corps. In addition, even if you had symptoms of a mental condition during your period of active duty, there is no indication in the record that you did not know right from wrong or were unable to adhere to the right. 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