



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

REC
Docket No: 12082-09
12 August 2010



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 11 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.


You reenlisted in the Marine Corps and began a period of active duty on 1 August 1968. On 29 October 1968, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. On 5 December 1968, you received NJP for being in an unauthorized absence (UA) status for 20 days. On 24 January 1969, you were convicted at a special court-martial (SPCM) of being UA for 14 days, failure to obey a lawful order and being disrespectful in language. You were sentenced to forfeitures of \$300, reduction in pay grade and confinement at hard labor for 30 days. On 25 September 1969, you were convicted by a SPCM of being UA for 23 days. You were sentenced to forfeitures of \$90, and 30 days restriction. Between 22 January 1970 and 30 October 1973, you received three additional NJP's. You committed the following offenses: UA on three occasions, and disobeying a lawful order by driving your privately owned vehicle with revoked privileges. On 14 August 1974, you were convicted by your third SPCM of being UA 48 days, missing the movement of your battalion, being disrespectful toward a senior commissioned officer, disobeying a lawful order, and assaulting a fellow Marine. You were sentenced to reduction in pay grade and 30 days confinement

at hard labor. On 5 October 1974, you commenced a period of UA which lasted 396 days. Upon your return, you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for a period of UA totaling over 13 months. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and were warned of the probable adverse consequences of accepting such a discharge. Your request for discharge was granted and on 10 February 1976, you received an other than honorable discharge in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct that resulted in six NJP's and three SPCM convictions. 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