



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

TJR
Docket No: 10989-10
20 July 2011

[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 Naval Records, sitting in executive session, considered your application on 19 July 2011. The names and votes of the members of the panel will be furnished upon request. 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 on 9 January 1970 at age 17 under the provisions of a drug exemption program. You served without disciplinary incident until 21 October 1970, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded a reduction to paygrade E-1, which was suspended for 90 days.


On 17 March 1971 you received NJP for a 14 day period of unauthorized absence (UA). About three months later, on 16 June 1971, you were convicted by summary court-martial (SCM) of a 34 day period of UA. You were sentenced to confinement at hard labor for one month, reduction to paygrade E-1, and a \$95 forfeiture of pay. On 16 August 1971 you were again convicted by SCM of a six day period of UA and sentenced to a \$40 forfeiture of pay and restriction and hard labor for 45 days. Shortly thereafter, on 1 October 1971, you admitted to wrongful use and/or possession of illegal drugs, and as such, you were in violation of your drug exemption. Subsequently, you were notified of pending administrative separation action by reason of

unfitness. After waiving your procedural rights, your commanding officer recommended discharge under honorable conditions by reason of unfitness. The discharge authority approved this recommendation and directed your commanding officer to issue you a general discharge by reason of unfitness, and on 22 October 1971, 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, post service conduct, and desire to upgrade your discharge. It also considered your assertion of peer pressure. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in two NJPs, two SCMs, and included drug abuse. Also, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an administrative discharge board. Further, there is no evidence in the record, and you submitted none, to support your assertion of peer pressure. Finally, Marines with an extensive record of misconduct, such as yours, normally receive discharges under other than honorable conditions, and as such the Board noted that you were fortunate to receive a general characterization of service. Accordingly, your application has been denied.

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