



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

TRG  
Docket No: 6830-00  
8 June 2001

Dear [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 5 June 2001. 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. In addition, the Board considered the advisory opinion furnished by the Naval Medical Center, San Diego, a copy of which is enclosed.

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 16 June 1967 at age 21. Subsequently, you completed initial training and reported to your unit in Vietnam on 15 November 1967. While in Vietnam, you participated in six combat operations and were awarded the Combat Action Ribbon and the Purple Heart. The records also shows that you received nonjudicial punishment (NJP) for an absence from your appointed place of duty. You left Vietnam on 13 July 1968.

On 4 February 1969 you received NJP for an absence from your appointed place of duty and disobedience. The punishment imposed included a reduction in rank to PFC (E-2). On 9 July 1969 you were convicted by civil authorities of tampering with an automobile and were sentenced to six months in jail, of which five months was suspended. You returned to the Marine Corps on 9 August 1969. That same day, you received NJP for the 31 days you were held by civil authorities. The punishment included a reduction in rank to PVT (E-1).

On 20 September 1969 you were arrested by civil authorities, apparently for burglary, and were released on bond two days later. Seventeen days later, you were evaluated and found to have an antisocial personality disorder. The psychiatrist recommended an administrative discharge because he believed your inappropriate behavior would continue.

On 20 October 1969 you were notified of separation processing due to your conviction by civil authorities of tampering with an automobile and the pending felony charges. On 1 December 1969 you were convicted by civil authorities on two counts of burglary and were sentenced to confinement for one year on each count. An administrative discharge board (ADB) met on 11 March 1970 and recommended an undesirable discharge by reason of misconduct based on both convictions by civil authorities. Subsequently, the discharge authority approved the recommendation of the ADB and you were so discharged on 20 March 1970.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your combat service in Vietnam which included being wounded in action. The Board also considered the character references you submitted, and the diagnosis made by the Department of Veterans Affairs that you suffer from post traumatic stress disorder (PTSD). Your counsel contends that the unrecognized PTSD led to self medication with drugs and alcohol and your felony conviction. He believes that you should not be punished for misconduct which resulted from your PTSD.

The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your convictions by civil authorities of burglary and tampering with an automobile. The Board noted that there is no evidence in the record to show that you were not responsible for your actions while in the Marine Corps. Further, it is clear that civil authorities found you responsible for your actions and competent to stand trial when you were convicted of the burglary charges. Therefore, the Board substantially concurred with the comments contained in the advisory opinion.

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

Enclosure

Copy to:  
The Military Order of the Purple Heart