



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

TJR
Docket No: 8538-00
31 July 2001

[REDACTED]

Dear [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 31 July 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.

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.

The Board found you enlisted in the Marine Corps on 18 August 1969 at the age of 18. Your record contains a Naval Investigative Service (NIS) report which indicates that on 26 August 1969 you submitted a written statement in which you admitted to participating in homosexual acts prior to and during your enlistment. The report notes that your case was being administratively closed due to your absence from the Marine Corps.

Your record reflects that on 10 September 1969 you began a 1,559 day period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 17 December 1973. On 23 January 1974 you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for the foregoing period of UA. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 12

February 1974 your request was granted and your commanding officer was directed to issue you an other than honorable discharge for the good of the service. 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. On 20 February 1974 you were so discharged.

On 29 June 1976, upon satisfactory completion of reconciliation service, you were issued a Certificate of Completion from the Selective Service System. On 16 August 1976, in accordance with a recommendation of the Presidential Clemency Board, you received an executive grant of clemency and a pardon pursuant to Presidential Proclamation 4313.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that your discharge certificate has not been changed to reflect your clemency discharge. However, these factors and contention were not sufficient to warrant recharacterization of your discharge to honorable or general because of the seriousness of your lengthy period of UA from the Marine Corps. The Board noted that your discharge was changed to a clemency discharge, but concluded that recharacterization to honorable or under honorable conditions was not warranted. Given the circumstances of your case, the Board concluded your clemency discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The Board also noted that you may contact Headquarters, United States Marine Corps, Deputy Chief of Staff for Manpower and Reserve Affairs (M&RA) Department, Separation Section (MMSR-3), 3280 Russell Road, Quantico, VA 22134-5103 to request a correction of your discharge certificate and/or issuance of a discharge certificate to reflect the issuance of a clemency discharge.

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