



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

CRS
Docket No: 8684-02
27 December 2002

[REDACTED]

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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 11 December 2002. 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 enlisted in the Marine Corps on 1 July 1970. The record reflects that you received nonjudicial punishment and were convicted by a summary court-martial and a special court-martial. The offenses included unauthorized absences totalling at least 145 days and breaking restriction. A psychiatric evaluation, conducted on 17 September 1971, found that you had a personality disorder.

On 18 November 1971 the commanding officer recommended that you be separated with a general discharge by reason of unsuitability due to a diagnosed personality disorder. When informed of the recommendation, you elected to waive the right to submit a statement on your behalf. After review by the separation authority, the commanding officer's recommendation for discharge was approved. However, you were discharged in absentia on 29 December 1971 with an honorable discharge instead of the general discharge directed by the separation authority.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as the contention that an individual cannot receive an honorable discharge if he has committed unauthorized absences. However, the Board concluded that these factors were not sufficient to warrant removal of your unauthorized absences. In this regard, you were very fortunate to receive an honorable discharge, given your disciplinary action and the unauthorized absences totalling more than four months, and especially since the separation authority directed a general discharge. Clearly, your absences and disciplinary record warranted the general discharge and it was appropriately directed, but you benefited from a clerical error. However, this does not constitute a reason to remove any periods of absence from your record. 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