



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

TJR
Docket No: 9234-07
6 November 2008

[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 5 November 2008. 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 31 January 1968 at age 19. About nine months later, on 18 September 1968, you were hospitalized for neurological observation because of your history of seizures, convulsive disorder, and maxillary sinusitis. As a result, on 15 October 1968, a medical report noted your seizure activities and you were prescribed anti-convulsion medication. At that time you were found fit for limited duty.

On 13 February 1969 you began a period of unauthorized absence (UA). On 25 April 1969, while in a UA status, you were apprehended and confined by civil authorities on charges of armed robbery, breaking and entering, and grand larceny. As a result, on 7 March 1970, you were convicted by civil authorities, however, sentencing was held in abeyance pending an investigation regarding your drug abuse.


Subsequently, while in the custody of civil authorities, you were notified of pending administrative separation by reason of misconduct due to the civil conviction. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 2 July 1970 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 29 July 1970 the discharge authority approved this recommendation, and on 14 August 1970 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 assertions of delayed combat fatigue, post traumatic stress, and a psychological condition that was not considered at the time of your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in the civilian community and lengthy period of UA from the Marine Corps. Further, there is no evidence in the record, and you submitted none, to support your assertions. 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