



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

RDZ:ecb
Docket No. 08996-08
11 March 2009

[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 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 10 March 2009. 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.

You enlisted in the Marine Corps on 26 February 1974 for a term of four years. Unfortunately you only served a little less than two years and were discharged, pursuant to your request, to avoid trial by court-martial for 159 days of unauthorized absence (UA). In your request you expressly agreed to accept an undesirable discharge (UD) in order to avoid the risk of serving confinement at hard labor and receiving a bad conduct discharge if you were convicted by court-martial. Your record also shows that prior to this offense you received two nonjudicial punishments and one summary court-martial for repeated periods


of UA, using disrespectful language to a superior and sleeping on fire watch. Moreover, at the time you began your 159 day period you were facing trial by court-martial for 11 instances of failure to go to your appointed place of duty.

In its review of your application the Boarded concluded that in view of the seriousness of your last offense as well as your prior disciplinary record your discharge was proper as issued and should not be changed now as a matter of clemency. The Board believed that you received considerable clemency when your request for discharge to avoid court-martial was granted.

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