



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

TJR
Docket No: 3946-09
26 March 2010

[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 23 March 2010. The names and votes of the members of the panel will be furnished upon request. 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 11 January 1973 at age 18. You served without disciplinary incident until 2 July 1973, when you began a period of unauthorized absence (UA) that was not terminated until you were apprehended on 5 July 1973. On 7 July 1973 you began another period of UA that was not terminated until 31 July 1973.


In September 1973 you submitted a sworn statement regarding the foregoing periods of UA. You stated, in part, that while in a UA status you provided support for your mother. You further stated that you understood the serious nature of a bad conduct discharge (BCD), but if you were returned to duty, you would again go UA because you could not adjust to military life. Shortly thereafter, on 7 September 1973, you were convicted by special court-martial (SPCM) of two periods of UA totalling 27 days. You were sentenced to confinement at hard labor for 45 days, a \$50 forfeiture of pay, and a BCD. However, in October 1973, the BCD was suspended for six months.

On 12 January 1974 you began a 12 day period of UA that was not terminated until you were apprehended by civil authorities on 24 January 1974. The record reflects that there was no disciplinary action taken for this period of UA. However, as a result of this misconduct, the suspended BCD was approved at all levels of review and ordered to be executed. Subsequently, on 25 March 1974, 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 and desire to upgrade your discharge. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your repeated periods of UA from the Marine Corps and declaration to continue going UA if returned to duty. Accordingly, your application has been denied.

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