



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

CRS
Docket No: 6325-09
6 July 2010



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 9 June 2010. 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 7 April 1969. You received nonjudicial punishment on four occasions and were convicted by two summary courts-martial and a special court-martial. The offenses included failure to go to appointed place of duty, failure to obey a lawful order, leaving an ambush position, wrongfully and willfully discharging a weapon thereby endangering a Vietnamese civilian, leaving post in a combat zone without proper relief, violation of a lawful general regulation, loitering on post in a combat zone, willful disobedience of a lawful order, and disobedience of a lawful general order.


On 16 September 1970 an administrative discharge board recommended that you be separated from the Marine Corps with an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. The recommendation was approved by the separation authority, and you were separated with an undesirable discharge on 13 October 1970.

On 31 March 1978 the Naval Discharge Review Board (NDRB) upgraded your discharge to general under the Special Discharge Review Program; however, on 20 June 1978 NDRB declined to affirm the upgrade under its uniform standards for discharge review, thereby denying you eligibility for benefits administered by the Department of Veterans Affairs.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth and service in Vietnam. The Board concluded that those factors were insufficient to warrant recharacterization of your discharge, given the number and severity of your offenses. 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