



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

BAN
Docket No: 04329-10
25 January 2011



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 20 January 2011. 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 27 February 1970, and served without disciplinary incident until 29 September 1970, when you received nonjudicial punishment (NJP) for unauthorized absence (UA) in excess of 20 days. Shortly thereafter, you received the following disciplinary actions: on 18 February 1971, you received NJP for UA and disobeying a lawful order; on 18 May 1971, you were convicted at a summary court-martial of UA in excess of 13 days; and on 24 August 1971, you were convicted at a special court-martial (SPCM) of three specifications of UA. Your sentence at the SPCM included a bad conduct discharge (BCD). Additionally, on 7 April 1971, you received a psychiatric medical evaluation and were deemed to have an immature and severe personality disorder. Therefore, mental health recommended a general discharge due to your unsuitability for military service. The Commanding General disapproved the recommendation. After appellate review, on 2 June 1972, you were separated with a BCD

and an RE-4 reenlistment code. However, on 28 April 1976, you were granted a full pardon by the President of the United States. The Presidential Clemency Board issued you a clemency discharge based upon your completion of alternate service. Presidential Proclamation Act 4313 of 16 September 1974 provided for voluntary alternative service under the auspices of the Reconciliation Service Program, Selective Service System, for a specified period. Upon completion of the alternative service, former service members were granted a clemency discharge. This restored civil rights although no veterans' rights or benefits. Therefore, if your intent was to receive an upgrade to your discharge characterization from a clemency discharge to a general discharge with benefits, the Board considered and denied that request.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your claim that you should not be punished for being forced to join the Marines at 17 years of age by your parents. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge because of your lengthy period of UA and prior misconduct. 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