



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

TAL
Docket No: 5719-10
11 February 2011

[REDACTED]

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 February 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 and began a period of active duty on 7 February 1956 at age 18. On 12 July 1956, you received nonjudicial punishment (NJP) for damage to government property and conduct prejudicial to good order and discipline. On 15 February 1957, you received NJP for unauthorized absence (UA) from your unit for a period of six days. On 11 March 1957, you received NJP for wrongful appropriation. On 12 April 1957, you were convicted by summary court-martial (SCM) of drunk and disorderly conduct. On 20 November 1957, you were again convicted by SCM of UA from your unit for a period of three days.

On 20 November 1957, you received NJP for failure to obey a lawful order. On 4 August 1960, you were convicted by special court-martial of UA from your unit for a period of 723 days. The sentence imposed was confinement of one year, forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). On 12 May 1961, you received the BCD after appellate review was complete.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that

these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in four NJPs, two SCMs, a SPCM and periods of UA that totaled over two years. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. 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