



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

TAL  
Docket No: 11427-10  
27 July 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 20 July 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 30 December 1963 at age 17. On 14 August 1964, you were convicted by special court-martial (SPCM) of unauthorized absence (UA) from your unit for a period of 39 days. The sentence imposed was a forfeiture of pay and confinement for three months, which was suspended for six months. On 9 February 1965, you were convicted by SPCM of UA from your unit for a period of 102 days and missing ship's movement. The sentence imposed was confinement for six months, a forfeiture of pay and a bad conduct discharge (BCD). The BCD was suspended for six months. On 28 June 1965 you were UA from your unit for a period of 67 days until you were apprehended and returned to military control on 3 September 1965. On 24 September 1965 the separation authority vacated the BCD imposed by SPCM of 9 February 1965. On 1 October 1965, you were so discharged. You requested a clemency discharge under the provisions of Presidential Proclamation 4313. You fulfilled the requirements of the Presidential Clemency Program and on 14 July 1977, your clemency discharge certificate was issued.

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 two SPCMs and periods of UA that totaled more than six months. The Presidential Clemency Board issued you a clemency discharge based upon your completion of alternate service pursuant to Presidential Proclamation 4313. However, this recharacterization does not entitle you to benefits administered by the Department of Veterans Affairs (DVA). The Board concluded that a further change, which would make you eligible for DVA benefits, was not warranted. Finally, the Board noted that the characterization on your Certificate of Release or Discharge from Active Duty (DD Form 214) incorrectly reflects an other than honorable characterization; you were discharged with a BCD. However, to correct the record to show that you were separated with the BCD would be to your detriment, and the Board's regulations preclude such a change. 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