



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

TJR  
Docket No: 458-11  
25 October 2011

[REDACTED]

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 25 October 2011. 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 10 June 1969 at age 18 and served for a year and three months without disciplinary incident. However, your record reflects that during the period from 9 September 1970 to 29 June 1971 you received nonjudicial punishment (NJP) on four occasions and were convicted by special court-martial (SPCM). Your offenses were disobedience, two specifications of disrespect, theft of a handbag, a three day period of unauthorized absence (UA), two specifications of failure to obey a lawful order, failure to observe reveille, and sleeping on post.

Subsequently, you were processed for an administrative separation by reason of unfitness due to frequent involvement of a discreditable nature with military or civilian authorities.


After waiving your procedural rights, your commanding officer recommended an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military or civilian authorities. On 16 November 1971 the discharge authority approved this recommendation and directed your commanding officer to issue you an undesirable discharge by reason of unfitness. On 30 November 1971 you were so discharged.

Your record reflects that on 12 August 1977, under the Department of Defense Discharge (DOD) Special Discharge Review Program (SDRP), the characterization of your undesirable discharge was changed to general under honorable conditions. However, this recharacterization does not entitle you to benefits administered by the Department of Veterans Affairs (DVA). In June 1978, as required by Public Law 95-126, the Navy Discharge Review Board (NDRB) determined that you did not qualify for an upgrade of your discharge under uniform standards and denied your request to upgrade your general discharge. However, the characterization of the discharge you received from the SDRP was not changed. Subsequently, you were advised that the NDRB had not affirmed your discharge and that you might be ineligible for veterans' benefits.

The Board, in its review of your entire record and application, carefully considered all mitigating factors, such as your youth, desire to upgrade your discharge so that you may receive veterans' benefits, and the passage of time. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant any favorable action given your frequent misconduct which resulted in four NJPs and a court-martial conviction. The Board noted that your characterization of service was changed to general under honorable conditions under the provisions of SDRP, but concluded that a further change was not warranted. 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