



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

TAL  
Docket No: 612-11  
21 October 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 19 October 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 June 1960 at age 17. On 14 June 1962, you received nonjudicial punishment (NJP) for failure to obey a lawful regulation (not checking in from liberty). On 18 July 1962, you received NJP for failure to go to your appointed place of duty and failure to obey a lawful order to get a haircut. On 31 July 1962, you received NJP for unauthorized absence from your unit. On 31 January 1964, you were convicted by civil authorities, and held in Dougherty County Jail, Albany, Georgia, after being found guilty of two counts of assault with intent to murder. You were sentenced to ten years confinement on one charge and five year confinement on the second charge. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (civilian conviction). You waived all of your procedural rights, including your right to an administrative discharge board (ADB). On 26 February 1964, you received the OTH discharge for misconduct due to your civilian conviction.

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 three NJPs and a civil conviction. Members of the armed services who are convicted by civil authorities and incarcerated may be discharged. 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