



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 12499-11
4 October 2012

[REDACTED]

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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 2 October 2012. 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 29 January 1970 at age 17 and served for about five months without disciplinary incident. However, during the period from 29 July to 14 October 1970 you received nonjudicial punishment (NJP) on four occasions for two specifications of disobedience, two periods of unauthorized absence (UA) totalling three days, and two periods of failure to go to your appointed place of duty.

On 26 February 1971 you received NJP for disobedience and were awarded restriction for 14 days and a \$31 forfeiture of pay. On 26 April 1971 you were convicted by summary court-martial (SCM) of two periods of UA totalling four days, two specifications of assault, and failure to obey a lawful order. In August 1971 you were counselled regarding your repeated periods of UA, and were recommended for participation in a Drug Exemption Program.

However, you decline to participation in the program and on 23 August 1971 began another period of UA. About four months later, on 20 December 1971, you were convicted by special court-martial (SPCM) of three periods of UA totalling 79 days. You were sentenced to confinement at hard labor for two months and a \$300 forfeiture of pay. Shortly thereafter, on 22 December 1971, you were not granted an exemption under a Drug Exemption Program because you did not voluntarily reveal your drug use prior to admission and treatment for heroin withdrawal.


Subsequently, you were processed for an administrative separation by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel you elected your right to present your case to an administrative discharge board (ADB). On 25 January 1972 an ADB recommended an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. Your commanding officer, in concurrence with the ADB, also recommended an undesirable discharge by reason of unfitness. On 26 January 1972 the discharge authority approved these recommendations and directed your commanding officer to issue you an undesirable discharge by reason of unfitness and on 9 February 1972 you were so discharged.

Your record reflects that on 22 June 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). Subsequently, 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. As such, 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 statements in support of your case. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant any favorable action given your frequent misconduct which resulted in five NJPs and two courts-martial. 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