



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2015-99

5 August 1999

Dear [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 3 August 1999. 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.

The Board found you enlisted in the Marine Corps on 13 December 1968 at the age of 17. On 8 July 1969 you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA) and were awarded forfeitures totalling \$25. Shortly thereafter, on 12 September 1969, you received NJP for disrespect and were given extra duty for 14 hours.

Your record further reflects that on 9 March 1970 you submitted a written request for an undesirable discharge in order to avoid trial by court-martial for a 94 day period of UA, failure to obey a lawful order, and 22 instances of wrongful use of government telephone services valued at \$105. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. However, on 16 March 1970, your request was denied and you were referred for a special court-martial (SPCM). On 21 April 1970 you were convicted and sentenced to reduction to paygrade E-1, forfeitures

totalling \$425, confinement at hard labor for five months, and a bad conduct discharge (BCD). On 2 September 1970 you submitted a written request for immediate execution of the BCD in which you stated that you had no desire to return to active duty. After the findings and sentence of the SPCM were reviewed and approved, the BCD was ordered executed. On 20 April 1971 you received the BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board also considered your contentions that you were sold a bill of goods regarding homosexual acts, and that you were UA because of your mother's illness and your desire to avoid participating in any homosexual acts. Finally, the Board considered your character reference letter. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct and your request for immediate execution of your discharge. Given all the circumstances of your case, the Board concluded your discharge was proper and no change is warranted. 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