



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

ELP  
Docket No. 121-01  
22 June 2001

[REDACTED]

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 for the Board for Correction of Navy Records, sitting in executive session, considered your application on 20 June 2001. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 1 March 1961 for four years at age 17. The record reflects that you were advanced to PFC (E-2) and served without incident until 9 April 1962. On that date you were convicted by special court-martial of two periods of unauthorized absence (UA) totalling about 59 days, from 8 January to 6 February and 20 February to 22 March 1962; and breaking restriction. You were sentenced to confinement at hard labor for six months, forfeitures of \$50 per month for six months, reduction in rank to PVT (E-1), and a bad conduct discharge.

On 18 April 1962 the convening authority approved only so much of the sentence that provided confinement at hard labor for four months, forfeitures of \$40 per month for four months, reduction rank to PVT, and suspended the bad conduct discharge for the period of confinement and six months thereafter. The supervisory

authority further reduced the confinement and forfeitures to three months on 25 April 1962. The unexecuted part of the confinement was suspended for six months on 1 June 1962.

On 25 September 1962 you were convicted by a second special court-martial of a 47 day period of UA, from 30 July to 14 September 1962. You were sentenced to confinement at hard labor for six months, forfeitures of \$55 per months for six months, and a bad conduct discharge. The convening authority approved only so much of the sentence that provided for confinement at hard labor for four months and forfeitures of \$55 per month for four months. The supervisory authority further reduced the confinement and forfeitures to three months. The unexecuted portion of the confinement was suspended for a period of three months on 23 October 1962.

On 21 February 1963 you were convicted by a third special court-martial of a 45 day period of UA, from 28 December 1962 to 11 February 1963. You were sentenced to confinement at hard labor for six months, forfeitures of \$55 per month for six months, and a bad conduct discharge. The convening authority approved the sentence but suspended the bad conduct discharge for the period of confinement and six months thereafter. The Navy Board of Review affirmed the findings and the sentence on 29 February 1963 and the supervisory authority reduced the confinement and forfeitures to four months on 25 March 1963.

You were reported UA again on 23 July 1963 when you failed to comply with orders. You remained absent until you were apprehended by civil authorities and were returned to military jurisdiction on 16 September 1963. The suspended bad conduct discharge was vacated on 19 October 1963 and ordered executed. You received the bad conduct discharge on 28 October 1963.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, letter of reference, and the fact that it has been nearly 28 years since you were discharged. The Board noted your contentions to the effect that you were told that the bad conduct discharge would be changed to honorable in six months, you had a nervous break down at the time of discharge and received no medical attention, and you never received a medal for serving on board the USS RANKIN during the Cuban crisis. Your contentions that you had a nervous breakdown at the time of discharge or that you served in the USS RANKIN during the Cuban crisis are neither supported by the evidence of record nor by any evidence submitted in support of your application. The Awards and Special Projects Branch in the Chief of Naval Operations Office found no evidence that the unit to which you were attached was authorized a medal for the Cuban crisis. There are no

automatic provisions for upgrading a discharge. Even if you were advised otherwise, such erroneous advice does not provide a basis for recharacterizing your service.

The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your convictions by three special courts-martial of four periods of UA totalling 140 days. Your total lost time due to UA and military confinement was 412 days. The Board also noted the aggravating factor that you were given an opportunity to earn a discharge under honorable condition not once, but three times, when the convening authority disapproved one bad conduct discharge and suspended two others. You failed to learn from these experiences and your misconduct continued. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. 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