



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

BAN
Docket No: 05359-09
12 April 2010



[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 7 April 2010. 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.

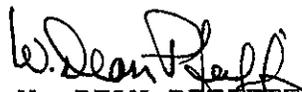
You enlisted in the Marine Corps on 31 October 1979, and served without disciplinary incident until 22 October 1981, when you received nonjudicial punishment (NJP) for public intoxication, and as a result, on 3 November 1981, you were sent to phase I of alcohol rehabilitation treatment. Shortly thereafter, you received the following NJP's: on 9 March 1982, for drunk and disorderly conduct and disrespect toward a commissioned officer; on 22 June 1982, for an unauthorized absence. In August 1982, you were sent back to the alcohol rehabilitation center for treatment for your alcohol abuse. However, on 29 September 1982, you received another NJP for disrespect to a senior noncommissioned officer, and drunk and disorderly conduct. On 2 May 1983, you were convicted at a summary court-martial for two specifications of disrespect in language toward a noncommissioned officer, failure to obey a lawful order, two specifications of a

general orders violation for being incapacitated while on duty, the illegal use of a controlled substance (marijuana), and the loss of your military identification card. Therefore, you were recommended for separation due to your pattern of misconduct. After seeking counsel, you signed an agreement to waive your administrative discharge board (ADB) and the separation authority approved the recommendation for an other than honorable (OTH) discharge. Therefore, on 25 August 1983, you were separated with an OTH discharge and an RE-4 reenlistment code.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant changing the characterization of your discharge due to your pattern of misconduct. Furthermore, the Board found you waived your right to an ADB, your best opportunity for retention or a better characterization of service. Finally, there is no provision in the law or regulations that allow 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 PREFFER
Executive Director