



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 3896-99

13 June 2000

[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 of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 June 2000. 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 20 February 1980 at the age of 19. Your record reflects that on 9 April 1980 you received nonjudicial punishment (NJP) for misbehavior as a sentinel and were awarded correctional custody for seven days, which was suspended for a month, and forfeitures totalling \$100. On 5 and 15 December 1980 you received NJP for a day of unauthorized absence (UA) and misbehavior as a sentinel.

Your record also reflects that during the period from 24 February to 14 November 1981 you received NJP on four more occasions for larceny, two periods of absence from your appointed place of duty, and possession of marijuana.

On 18 November 1981 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). Your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to frequent

involvement of a discreditable nature with military and civilian authorities. The discharge authority approved the recommendation and directed your commanding officer to issue you an other than honorable discharge. Accordingly, on 5 February 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent misconduct which resulted in seven NJPs. The Board also noted that although you elected your right to an ADB, you eventually waived this right as evidenced by your signature on your Certificate of Discharge or Release from Active Duty (DD Form 214), which indicates that you were properly separated without an ADB. Given all the circumstances of your case, the Board concluded the 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