



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

TRG
Docket No: 3954-00
11 July 2001

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the 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 10 July 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, 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 was unable to obtain your service record and conducted its review based on the decisional document prepared by the Naval Discharge Review Board. That document shows that you reenlisted in the Marine Corps in the rank of GYSGT (E-7) on 7 June 1991 for two years. On 15 January 1992 you were convicted by a special court-martial of the theft of a bow and accessories valued at \$119. The court sentenced you to reduction to pay grade E-1 and a bad conduct discharge. Apparently, you began appellate leave shortly after the court-martial and remained in that status until the bad conduct discharge was issued. The NDRB document shows that the findings and sentence of the court-martial were subsequently affirmed on appellate review. The bad conduct discharge was issued on 5 December 1994. The DD Form 214 shows that at the time of discharge you had completed 18 years, 7 months and 28 days of active service and about five and a half years of reserve service.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your many years of honorable service and your contention, in effect, that the punishment was too severe and you should have been allowed to retire. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge

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given your conviction by court-martial of a serious offense. There is no evidence in the NDRB decisional document to show that the length of service computation shown on the DD Form 214 is in error. Therefore, it does not appear that you were retirement eligible at the time the bad conduct discharge was issued. The Board concluded that the discharge was proper as issued 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