



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

TJR  
Docket No: 4906-01  
27 December 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 of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 December 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 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 10 June 1982 at the age of 18. Your record reflects that on 19 January 1983 you received nonjudicial punishment (NJP) for failure to obey a lawful order and were awarded a \$50 forfeiture of pay, a portion of which was suspended for a month. On 10 February 1983 you received NJP for failure to obey a lawful order, breach of peace and assault. The punishment imposed was a \$50 forfeiture of pay, which was suspended for six months, and an oral reprimand. On 12 January 1984 you received NJP for disrespect and were awarded a reduction to paygrade E-2, which was suspended for four months.

Your record further reflects that on 7 March 1985 you received NJP for three specifications of an unspecified periods of unauthorized absence (UA), assault, four specifications of insubordination, three specifications of failure to obey a lawful order, resisting arrest, and an unspecified violation of Article 134 of the Uniform Code of Military Justice. The punishment imposed was a \$200 forfeiture of pay, restriction and extra duty for 45 days, and reduction to paygrade E-2. On 20 May 1985 you received NJP for absence from your appointed place of duty and disrespect. The punishment imposed was a \$200 forfeiture of pay and reduction to paygrade E-1.

On 27 May 1985 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense. At that time you waived your rights to consult with legal counsel, to present your case to an administrative discharge board, and to submit a statement in rebuttal to the discharge. On 30 May 1985 your commanding officer recommended you be discharged under other than honorable conditions by reason of misconduct due to commission of a serious offense. The recommendation noted, in part, as follows:

(Member) is unable to adjust to the rules, regulations, and standards required to be a productive member of this command or the Naval Service. (His) offenses of misconduct as documented, make him unsuitable for service in the Navy. The punishment awarded him for his violations, extensive counselling and assistance from all levels of the chain of command have failed to reverse his behavior. (He) has received most five times for various violations. (His) retention is not considered in the best interest of the Navy, and it is strongly recommended that a discharge by reason of misconduct due to commission of a serious offense be awarded and that such discharge be under other than honorable conditions.

On 16 June 1985 the discharge authority directed an other than honorable discharge by reason of misconduct, and on 27 June 1985 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 were not given an opportunity to complete your full term of service. The Board also considered your contention that you were told that your discharge would be automatically upgraded a year after your separation. However, no discharge is automatically upgraded merely due to the passage of time. Therefore, Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the serious nature of your repetitive misconduct which resulted in five NJPs. Given all the circumstances of your case, the Board concluded your 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