



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

TJR
Docket No: 7157-01
9 April 2002

[REDACTED]

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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 2 April 2002. 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 that on 16 August 1985, after about six years of prior enlisted service in the Marine Corps, you were appointed a second lieutenant in the Marine Corps Reserve and continued to serve on active duty. On 20 June 1988 you were re-appointed as a first lieutenant in the Regular Marine Corps. Your record reflects that you then continued to serve for about seven years without disciplinary incident. During this period you were promoted to captain and received two awards of the Navy Achievement Medal. On 20 May 1995, you were apprehended by military authorities due to domestic assault. On 1 December 1995 you were convicted by general court-martial (GCM) of assault. You were sentenced to a reprimand, restriction for 60 days, a \$5,355 forfeiture of pay, and your name was placed at the bottom of the captain's list.

Your record further indicates that you were processed for an involuntary administrative separation by reason of unacceptable performance as evidenced by the GCM conviction. It further appears that after a board of inquiry recommended discharge by reason of unacceptable performance, the Secretary of the Navy

directed separation. The record clearly shows that on 8 July 1997 you received a general discharge by reason of unacceptable conduct after nearly eighteen years of active service.

The Board, in its review of your entire record and application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service and the fact that after more than 17 years of faithful service you were discharged without severance pay. The Board also considered your contentions that other Marines who had committed more serious crimes were honorably discharged, and that you believe you were singled out and discharged because of your family problems. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct which resulted in a GCM. Further, individuals discharged by reason of misconduct are not eligible for separation pay. Also, there is no evidence in the record, and you submitted none, to support your contention of unfair treatment. Given all the circumstances of your case, the Board concluded the your discharge was proper and no changes are 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