



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

TJR
Docket No: 2901-01
11 February 2002



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 5 February 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 you enlisted in the Marine Corps on 28 June 1976 at the age of 17. Your record reflects that you served for two years and nine months without disciplinary incident but on 26 March 1979 you received nonjudicial punishment (NJP) for underage drinking while on duty. The punishment imposed was a \$115 forfeiture of pay and restriction and extra duty for 14 days. Shortly thereafter, on 9 April 1979, you received NJP for a six day period of unauthorized absence (UA) and wrongful possession of government documents. The punishment imposed was a \$400 forfeiture of pay, reduction to paygrade E-2, and correctional custody for 30 days. On 5 October 1979, while in a UA status, you were convicted by civil authorities of felony grand theft auto. You were sentenced to a \$2,337 fine and probation for three years. On 14 January 1980, following a 101 day period of UA, you were released from civil custody and returned to military authorities.

Your record further reflects that on 16 April 1980 you were convicted by special court-martial (SPCM) of three periods of UA totalling 43 days and were sentenced to confinement at hard labor and restriction for 30 days. On 14 August 1980 you received NJP for three periods of UA totalling 17 days, destruction of government property, and disobedience. The punishment imposed was a \$116 forfeiture of pay and restriction for 10 days. On 19 September 1980 you received NJP for a day of UA and were awarded restriction for 10 days and a \$52 forfeiture of pay, which was suspended for four month. You received your fifth NJP on 3 October 1980 for two periods of UA totalling two days and were awarded a \$116 forfeiture of pay and restriction for 10 days. On 21 October 1980 the suspended forfeitures awarded at the 19 September 1980 NJP were vacated due to your continued misconduct.

On 7 November 1980 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military and civil authorities. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 5 December 1980 an ADB recommended you be separated under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military and civilian authorities. Subsequently, your commanding officer recommended you be discharged under other than honorable conditions by reason of misconduct. The discharge authority approved the foregoing recommendation and directed an other than honorable discharge by reason of misconduct. On 15 December 1980 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. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct in both the military and civilian communities. 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