



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

JRE
Docket No: 4717-00
24 January 2002

[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. You requested that your record be corrected to show that you were separated from the Marine Corps with a "Medical Discharge under Honorable Conditions".

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 January 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. In addition, the Board considered the comments of your counsel.

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 found that you enlisted in the Marine Corps on 22 April 1997. You received non-judicial punishment on one occasion, and were convicted by summary court-martial of multiple offenses. On 28 August 1998, you were notified of your rights in connection with your proposed separation by reason of misconduct-commission of a serious offense. After consulting with counsel, you waived your right to consideration of your case by an administrative discharge board. You underwent a pre-separation physical examination on 1 September 1998, and were found physically qualified for release from active duty. You did not disclose any conditions which you felt rendered you unfit for duty, and none was noted by the physician who performed the examination. You were discharged by reason of misconduct on 26 September 1998, with a discharge under other than honorable conditions. On or about 21 December 1998, officials of the Department of Veterans Affairs determined that your military service was terminated by a discharge under dishonorable conditions,

which precluded your eligibility for benefits administered by the Department of Veterans Affairs

In the absence of evidence which demonstrates that your discharge by reason of misconduct is erroneous or unjust, and establishes that you were unfit to perform the duties of your office, grade, rank or rating by reason of physical disability, the Board was unable to recommend any corrective action in your case. The available records do not indicate the basis for the period of lost time from 30 July to 24 August 1998, which is shown on your DD Form 214. It noted, however, that periods spent in confinement are considered lost time, and that you were sentenced to 30 days confinement on 30 July 1998.

In view of the foregoing, 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