



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

TJR
Docket No: 6453-01
20 February 2002

[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 12 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 15 March 1974 at the age of 18. Your record reflects that on 13 August 1974 you received nonjudicial punishment (NJP) for assault and an unspecified period of unauthorized absence (UA). The punishment imposed was a reduction to paygrade E-1 and a \$50 forfeiture of pay.

Your record also reflects that during the period from 29 August to 9 September 1974 you were in a UA status for seven days and during the period from 6 December 1974 to 13 June 1975 you were in a UA status for 97 days. However, the record does not reflect the disciplinary action taken, if any, for these periods of UA.

It appears that on 14 April 1975 you began another period of UA that was not terminated until you were apprehended by civil authorities and charged with armed robbery. Subsequently, on 6 October 1975, you were convicted by civil authorities of first degree robbery with a deadly weapon and were sentenced to confinement for five years.

On 27 July 1976, while in custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 26 September 1976 an ADB recommended you be separated with an undesirable discharge by reason of misconduct due to civil conviction. On 13 October 1976 your commanding officer recommended an undesirable discharge by reason of misconduct due to the 6 October 1975 civil conviction. On 3 November 1976 the discharge authority approved the foregoing recommendation and directed an undesirable discharge and on 10 November 1976 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 and post service conduct. 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