



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

JRE
Docket No: 8408-02
18 December 2002



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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 December 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. Your medical and dental records were apparently misplaced at some time prior to your discharge, and are presumed lost.

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 21 May 1991. On 30 October 1992 you were convicted by special court-martial of two absences without authority, wrongful use of cocaine, and failing to maintain sufficient funds in a bank account to cover the payment of four checks you had written. The sentence included a bad conduct discharge, confinement for 79 days, forfeiture of \$500.00 pay per month for three months, and reduction to pay grade E-1. You entered into an appellate leave status on 13 January 1993, and were discharged with a bad conduct discharge on 13 February 1995, upon the completion of appellate review of your conviction and sentence.

The Board found no indication in the available records that you were unfit by reason of physical disability at the time of your discharge, or that you were pending a "section 8" discharge at any time during your enlistment. It noted that as a bad conduct discharge takes precedence over disability evaluation processing, you would not have been entitled to

separation or retirement by reason of physical disability even if you had been unfit for duty. The Board concluded that in view of the number and severity of your offenses, your limited period of creditable service prior to your conviction, and the absence of significant matters in extenuation or mitigation, there is no basis for upgrading your discharge. 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