



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

WMP
Docket No: 9552-02
23 April 2003



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 23 April 2003. 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 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 31 August 1981 for four years at age 19. You served without incident until 10 December 1983, when you failed to report to 2nd Marine Corps Air Wing, Cherry Point, NC.

On 4 February 1984, you were arrested and held by civil authorities for armed robbery and assault and battery with intent to kill. On 27 February 1984 you were convicted of aggravated assault and sentenced to 30 months confinement at hard labor.

On 19 June 1994, at the direction of the Commandant of the Marine Corps (CMC), you were notified that separation action was being initiated by reason of misconduct due to civil conviction. Although the documentation concerning your

election or waiver of procedural rights is missing, you were delivered a copy of the proposed separation action on 10 July 1984 and firmly expressed your desire not to be retained in the Marine Corps upon your release from civil confinement.

The commanding officer forwarded your discharge package to the discharge authority recommending an other than honorable discharge by reason of misconduct due to civil conviction which was directed on 25 September 1984. On 23 October 1984, you were so discharged.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity. However, the Board found that you were appropriately discharged by reason of misconduct due to civil conviction for your conviction by civil authorities of aggravated assault. The Board concluded that this characterization of service was appropriate because of the seriousness of your civil conviction. 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