



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

TJR
Docket No: 8600-06
17 July 2007

[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 17 July 2007. 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.

You enlisted in the Marine Corps on 17 June 1966 at age 19. You served for one year without disciplinary incident, but on 6 June and again on 22 August 1967 you received nonjudicial punishment (NJP) for two periods of unauthorized absence (UA) totalling four days. On 5 December 1968 you received NJP for failure to obey a lawful order and failure to go to your appointed place of duty.

On 21 February and 2 March 1969 you received NJP for failure to obey a lawful order and disobedience. On 7 May 1969 you were convicted by summary court-martial (SCM) of breaking restriction and sentenced to reduction to paygrade E-1 and hard labor for 30 days. About a month later, on 3 June 1969, you were convicted by special court-martial (SPCM) of six specifications of wrongful use of marijuana. You were sentenced to confinement at hard labor for six months, a \$438 forfeiture of pay, and a bad conduct discharge (BCD), all of which was remitted. Nevertheless, on 17 November 1969 you received your sixth NJP for failure to obey a lawful order and were awarded restriction and extra duty for 14 days.

Your record of promotion, reduction, and examination for promotion reflect that on 16 December 1966 you were promoted to private first class (PFC)/(E-2). On 16 February 1968 you received a probationary promotion to lance corporal (LCPL)/(E-3) and on 5 March 1969 that promotion was made permanent. It also reflects that as a result of the 7 May 1969 SCM sentence you were reduced in rank to private (PVT)/(E-1). The record further reflects that on 1 January 1970 you were again promoted to the rank of PFC/(E-2).

Subsequently, on 21 January 1970, while serving in paygrade E-2, you were released from active duty under honorable conditions. On 17 August 1972, upon completion of your required obligated service, you were issued a general discharge.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertion that you would like restoration to the rank of corporal (CPL)/(E-4). Nevertheless, the Board concluded these factors were not sufficient to warrant restoration in rank because of your repetitive misconduct, which resulted in six NJPs and two court-martial convictions. Finally, the Board noted that there is no evidence in the record, and you submitted none, to support your assertion of promotion to LCPL/(E-4). 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 PENIFFER
Executive Director