



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

SMW
Docket No: 5544-07
24 January 2008

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 January 2008. 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.

On 26 December 1978, you enlisted in the Marine Corps at age 18. On 21 August and 17 October 1979, you had nonjudicial punishments for a brief period of unauthorized absence (UA) and carrying a concealed weapon, specifically, a straight razor. On 31 October 1979, you began a UA that ended on 9 July 1980, a period of about 252 days. On 16 September 1980, you were convicted by a special court-martial of this offense. The court sentenced you to confinement at hard labor, reduction in rank, and a bad conduct discharge (BCD). On 30 October 1980, you waived the right to request restoration to duty, but requested clemency. On 19 February 1981, your request for clemency was denied. After the BCD was approved at all levels of review, on 7 December 1981, you were so discharged.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth and contentions that you were not provided proper legal counsel and went UA because your commanding officer was prejudiced. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge due to

the seriousness of your misconduct, specifically, more than eight months of UA. Regarding your contentions, there is no evidence in the record to support them. However, the record does show that you chose to violate the Uniform Code of Military Justice which resulted in 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