



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

TJR  
Docket No: 7701-07  
18 August 2008



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 August 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.

You enlisted in the Marine Corps Reserve on 25 May 1979 at age 20. About five months later, on 13 October 1979, you were apprehended and held in confinement by civil authorities on charges of assault which included possession and threat by using a straight razor, and common law robbery. As a result, on 14 January 1980, you were convicted by civil authorities of common law robbery and sentenced to confinement for five to seven years.

On 21 January 1980 you were notified of pending administrative separation action by reason of misconduct due to conviction by civil authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 1 April 1980 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 14 April 1980 the discharge authority approved this recommendation and directed an other than honorable discharge, and on 6 March 1981, while in civil custody, 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 desire to have your discharge upgraded. It also considered your assertion that you made some bad decisions that you now regret. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in the civilian community that resulted in 506 days of unauthorized absence from the Marine Corps. Finally, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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 PFELFER  
Executive Director