



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

BAN
Docket No: 11077-07
13 August 2008

[REDACTED]

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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 13 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 in September 1979 and were discharged in February 1982. During the period of your service, you were awarded two nonjudicial punishments (NJP) for drug usage and disobeying a lawful order. In addition, you had received several adverse counseling statements.

On 29 December 1981, you were notified of your processing for administrative separation due to misconduct. You were also advised that you were not entitled to have your case presented to and considered by an administrative discharge board, since you elected to be discharged to escape a trial by court-martial and you had less than six years of active duty.

On 4 January 1982, you were recommended for a general discharge by your commanding officer (CO). You were advised that the

Commandant of the Marine Corps (CMC) could disapprove your CO's recommendation and give you an other than honorable (OTH) discharge. On 29 January 1982, CMC did not approve the general discharge and authorized an OTH discharge, based on your repeated offenses for drug usage, and on 12 February 1982, 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, post service conduct, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. 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