



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

TRG  
Docket No: 2504-08  
23 December 2008

[REDACTED]

[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 16 December 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You entered in the Marine Corps in 1981 and served continuously after that date. In March 1998 you were convicted by a general court martial of numerous charges which included attempted robbery, conspiracy to commit robbery, larceny, robbery, housebreaking, and interstate transportation of stolen property. The sentence of the court included forfeiture of all pay and allowances, reduction to paygrade E-1, 75 years confinement and a dishonorable discharge.

After an extensive appellate review a retrial was ordered. In September 2004 you were again convicted of the foregoing charges. This time, you were sentenced to forfeiture of all pay and allowances, reduction to pay grade E-1, 35 years confinement and a dishonorable discharge. On 10 January 2007, the Navy-Marine Corps Court of Criminal Appeals affirmed the findings and sentence and noted that a pretrial agreement required that confinement in excess of 20 years be suspended for a period of 20 years from the date of the trial. On 13 February 2008 the Naval Clemency and Parole Board denied your request for restoration to duty and clemency.

In your application you are requesting that all traces of the invalid court-martial be removed from your record and that the

dishonorable discharge be upgraded to an honorable discharge. As you have been previously informed the Board is prevented by law from reviewing courts-martial and must limit its review to determining if the court-martial sentence should be reduced as a matter of clemency. Therefore, all of your arguments concerning the court-martial conviction were disregarded by the Board.

Given the offenses for which you were convicted the Board could not conclude that the sentence of the court was too severe. 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