



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

TJR
Docket No: 3535-08
25 February 2009

[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 24 February 2009. The names and votes of the members of the panel will be furnished upon request. 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 19 September 1995 at age 20 and began a period of active duty on 6 November 1995. You served without disciplinary incident until 8 August 1997, when you received nonjudicial punishment for being incapacitated for duty and were awarded restriction and extra duty for 14 days and a suspended forfeiture of pay.

On 8 January 1999 you were convicted by general court-martial (GCM) of dereliction of duty, and assault. You were sentenced to confinement for 86 days, reduction to paygrade E-1, and a bad conduct discharge (BCD). Subsequently, the BCD was approved at all levels of review, and on 3 January 2005 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, satisfactory period of service, and explanations regarding the offenses for which you were convicted by GCM. It also considered your assertion that your offenses did not warrant a BCD and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your misconduct. Accordingly, your application has been denied.

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