



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

TJR
Docket No: 6373-08
7 May 2009

[REDACTED]

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 5 May 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 10 April 1973 at age 19 and immediately began a period of active duty. You served without disciplinary infraction until 23 August 1973, when you received nonjudicial punishment (NJP) for breaking restriction and failure to obey a lawful order.

During the period from 26 June to 20 December 1974 you received NJP on three more occasions for two specifications of disobedience and two periods of absence from your appointed place of duty. On 12 March 1975 you received your fifth NJP for absence from your appointed place of duty.

Subsequently, on 9 April 1976, you were released from active duty under honorable conditions and transferred to the Marine Corps Reserve. On 9 April 1979, upon completion of your obligated service, you were issued a general discharge.

At the time of your release and discharge character of service was based, in part, on conduct and proficiency averages which were computed from marks assigned during periodic evaluations. Your conduct average was 3.9. However, an average of 4.0 in conduct was required at the time of your release and discharge for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertions that you were told that you would receive an honorable discharge and that there must be an error in your record if the general discharge was based on certain scores in your record. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in five NJPs. Finally, the Board noted that with your record of misconduct, you were fortunate to receive a general discharge. 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