



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

SMS
Docket No: 6634-08
19 March 2009



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 18 March 2009. 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.

On 3 October 1972, you enlisted in the Marine Corps at age 18. On 16 December 1972, while in recruit training, you began a period of unauthorized absence (UA). On or about 3 January 1973, you were apprehended by civilian authorities and held pending charges. On 18 June 1973, you were convicted in civilian court of breaking and entering during the night and sentenced to confinement. On 1 August 1973, you were released from civilian confinement and returned to military authorities. On 6 August 1973, your commanding officer initiated administrative separation by reason of misconduct due to a civil conviction. In connection with this processing, you acknowledged that separation could result in an undesirable discharge (UD) and waived the right to have your case heard by an administrative discharge board (ADB). On 22 August 1973, the separation authority approved the discharge recommendation and directed a UD by reason of misconduct due to a civil conviction. On 29 August 1973, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and regret for your misconduct. The Board also considered the letters of recommendation that you submitted with your application. Nevertheless, the Board concluded that these factors were not

sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board also noted that you waived the right to have your case heard by an ADB, your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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