



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

SJN
Docket No: 07028-08
5 June 2009

[REDACTED]

Dear [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 2 June 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 12 August 1987 at age 18. On 12 May 1988, you received nonjudicial punishment (NJP) for 13 days of unauthorized absence (UA). On 24 May 1988, you were convicted by summary court-martial (SCM) of 16 specifications of failure to go to your appointed place of duty. On 24 June and 9 August 1988, you received NJP for four days of UA, wrongful use of government services.

On 30 August 1988, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 9 September 1988 the separation authority directed an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 15 September 1988 you were so discharged.

You elected to consult with legal counsel and requested an administrative discharge board (ADB). Subsequently, on 11 May 1992, an ADB unanimously found that you had committed misconduct due to a pattern of misconduct, and recommended discharge under other than honorable conditions. Additionally, during the proceeding, you confessed to the pending larceny charge involving the Navy Exchange. On 19 May 1992, your commanding officer concurred with the ADB and forwarded your case to the discharge authority for review and stating, in part, that you had been counseled on numerous occasions concerning lack of judgment, poor performance, and lack of initiative. On 26 May 1992, the discharge authority directed an other than honorable discharge by reason of misconduct. On 29 May 1992 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of three NJP's and conviction by SCM. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. 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