



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

TJR  
Docket No: 7523-08  
12 June 2009



Dear [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 9 June 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 15 January 1975 at age 18. You served for a year and two months without disciplinary incident, but during the period from 30 March to 1 August 1976 you received nonjudicial punishment (NJP) on three occasions for three periods of absence from your appointed place of duty, and a one day period of unauthorized absence (UA). On 24 September 1976 you were convicted by special court-martial (SPCM) of assault and sentenced to confinement at hard labor for three months, a \$600 forfeiture of pay, and reduction to paygrade E-1.

During the period from 18 April to 18 November 1977 you received NJP on three more occasions for an 11 day period of UA, two periods of absence from your appointed place of duty, six periods of failure to go to your appointed place of duty, and failure to obey a lawful order.

On 17 November 1977 you were notified of pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 29 November 1977 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. On 12 December 1977 the discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 16 December 1977, 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 and desire to upgrade your discharge. 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 six NJPs and a SPCM. Finally, you were repeatedly advised and warned regarding deficiencies in your performance and that failure to correct these deficiencies would result in disciplinary action and administrative discharge. You were also given an opportunity to defend yourself at an ADB and possibly obtain a better characterization of service, but instead you waived your procedural right to present your case to an ADB. 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