



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

TJR  
Docket No: 7560-08  
12 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, 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 10 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 27 February 1976 at age 18 and served without disciplinary incident until 14 December 1976, when you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty, disobedience, and failure to obey a lawful order. About two months later, on 16 February 1977, you received your second NJP for absence from your appointed place of duty.

On 16 and again on 23 January 1978 you received NJP for three specifications of failure to obey a lawful order, absence from your appointed place of duty, and breaking restriction. Shortly thereafter on 28 March 1978, you were convicted by special court-martial (SPCM) of assault and sentenced to a \$200 forfeiture of pay. You received your fifth NJP, on 18 May 1978, for absence from your appointed place of duty. Two months later, on 14 July 1978, you were convicted by summary court-martial (SCM) of a three day period of unauthorized absence (UA) and four specifications of failure to obey a lawful order.

Subsequently, 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 19 July 1978 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 21 August 1978 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 28 August 1978, you were so discharged and assigned an RE-4 reenlistment code.

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 and change your reenlistment code so that you may reenlist and fulfill your original contract with the Marine Corps. It also considered your assertion that you were not advised of the characterization of your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change of your reenlistment code because of the seriousness of your repetitive misconduct which resulted in five NJPs and two court-martial convictions. 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