



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

SJN
Docket No: 08261-08
17 September 2008

[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 9 September 2008. 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.

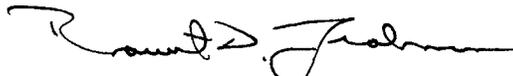
You enlisted in the Marine Corps on 7 June 2005 at age 18. On 25 July 2006 and 30 January 2007, you received nonjudicial punishment (NJP) for absence from your appointed place of duty, five instances of disobedience, and making a false official statement.

On 20 February 2007, 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). On 22 February 2007, your commanding officer forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct. On 28 March 2007, the discharge authority directed an other than honorable discharge by reason of misconduct. On 4 April 2007 you were so discharged. However, on 16 May 2008, the Naval Discharge Review Board (NDRB) upgraded your characterization of service to general, stating that your discharge was proper but not equitable.

The Board, in its review of your entire application, carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and the statement you provided in support of your case. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge or reenlistment code given your record of two NJP's and the fact that you were counseled and warned on four occasions that further misconduct could result in administrative separation. The Board also noted that you were fortunate to have your characterization of service upgraded to a general discharge by the NDRB since a discharge under other than honorable conditions is often directed when an individual is discharged for misconduct. 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,



FR W. DEAN PFEIFFER
Executive Director