



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

TJR
Docket No: 8790-08
14 July 2009

[REDACTED]

[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 7 July 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 26 July 1989 at age 18 and began a period of active duty on 1 August 1989. You served for a year and eight months without disciplinary infraction, but during the period from April to December 1991 you were repeatedly counselled regarding deficiencies in your performance and conduct, specifically, writing checks with insufficient funds, conduct unbecoming a Marine, failure to follow proper procedures, ineligibility for promotion, sleeping on post, and failure to obey orders.

On 30 October 1991 you received nonjudicial punishment (NJP) for sleeping on post. Four months later, on 13 February 1992, you received NJP for failure to go to your appointed place of duty, and on 20 April 1992 you received your third NJP for mishandling ordnance.

On 24 April 1992 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 1 May 1992 your commanding officer recommended an other than honorable discharge by reason of misconduct due to a pattern of misconduct. On 20 May 1992 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 29 May 1992 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. It also considered your assertions of being told that you would receive a general discharge and that you did not commit any offense that would warrant an other than honorable 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 three NJPs. Further, you were given an opportunity to defend yourself, but waived your procedural right to consult with legal counsel and to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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