



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS RDZ:ecb

2 NAVY ANNEX

WASHINGTON DC 20370-5100

Docket No. 09890-08

13 August 2009

[REDACTED]

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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 4 August 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 4 January 1979. During your active service you had 13 military justice violations resulting in six nonjudicial punishments. Your offenses consisted of unauthorized absence, being absent from duty, incapacitation for duty due to alcohol and being drunk on duty. Additionally as a result of an automobile accident you were convicted by civil authorities of drunk driving and operating a motor vehicle with a revoked license. Finally, you tested positive for drugs on an urinalysis test shortly before discharge. Your record also shows that you were counseled and warned on numerous occasions regarding your acts of misconduct, poor performance of duty as well as alcohol and drug abuse.

In its review of your application the Board concluded that in view of your extensive disciplinary record your discharge was proper as issued and should not be changed now as a matter of clemency. The Board found no merit to your contention you were denied adequate representation by counsel. To the contrary your record clearly shows that when you were being processed for administrative discharge you waived your right to be represented by a military lawyer and to a hearing.

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