



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

BJG
Docket No: 10070-08
22 July 2009



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 22 July 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 and medical records, 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. The Board found that you entered active duty in the Marine Corps on 1 March 1972. You were in an unauthorized absence status on three occasions, totaling about 186 days, but no disciplinary action was taken. On 26 April 1973, you were convicted by civilian authorities of armed robbery, and were sentenced to six months confinement. On 27 June 1973, you were notified of pending administrative separation action for misconduct due to your civilian conviction. You requested an administrative discharge board (ADB), which recommended that you be separated with an other than honorable (OTH) discharge for misconduct based on your

armed robbery conviction. On 5 October 1973, the separation authority agreed with the ADB's recommendation. On 19 October 1973, you received an OTH discharge for misconduct, and were assigned an RE-4 reenlistment code.

The Board, in its review of your entire record, carefully weighed all potential mitigation, such as your youth and family problems. Nevertheless, the Board concluded that these factors were not sufficient to warrant upgrading your OTH discharge because of your long periods of UA and civilian conviction. In view of the above, 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