



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

BAN
Docket No: 12263-08
4 November 2009



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

You enlisted in the Marine Corps on 26 July 1990, and served without disciplinary incident until 17 February 1992, when you received nonjudicial punishment (NJP) for not cleaning your berthing area, disrespect toward a noncommissioned officer, and using provoking speech or gestures.

Shortly thereafter, you received the following disciplinary actions: on 30 April 1992, you received NJP for breaking restriction; on 22 September 1992, you received NJP for larceny and leaving the base without signing out; and on 8 March 1993, you were convicted at a summary court-martial for failure to obey a lawful order, UA, and disrespect toward a noncommissioned officer. You were advised that you were being administratively separated with an other than honorable (OTH) discharge due to misconduct and you waived your procedural right to an

administrative discharge board (ADB). Therefore, you were recommended for separation with an OTH discharge by reason of misconduct. The separation authority approved the recommendation and on 27 July 1993, you were separated with an OTH discharge and 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 the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. The Board found that you waived your right to an ADB, your best opportunity 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, 1


W. DEAN PFEIFFER
Executive Director