



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

CRS
Docket No: 12414-08
4 December 2009

[REDACTED]

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This is in reference to your application for further consideration of 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 18 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 6 February 1989. You received nonjudicial punishment on two occasions for offenses that included absence from appointed place of duty, disobedience of a lawful order, and dereliction of duty. On 25 October 1990 a special court-martial convened and found you guilty of an unauthorized absence of eight days and uttering a worthless check. The court sentenced you to confinement at hard labor for 90 days, reduction in rate, and a bad conduct discharge. You were separated from the Marine Corps on 3 March 1993 with a bad conduct discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, overall record of service, and good post service conduct. The Board found those factors insufficient to warrant recharacterization of your discharge, given your extensive disciplinary record. The Board noted that it is precluded by law from taking any action that would disturb the finality of a court-martial, and that it

may modify a sentence as a matter of clemency only. It concluded that clemency was not warranted in your case. 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