



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

RDZ:ecb
Docket No. 02194-08
20 April 2009

[REDACTED]

[REDACTED]

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 15 April 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 1 September 1977. Between January 1978 and June 1980 you received four nonjudicial punishments. Your offenses were five instances of sleeping on post, failure to obey a lawful order and possession of marijuana. On 17 October 1980, after conferring with a military lawyer you requested that you be given an other than honorable discharge (OTH) rather than face trial by court-martial for 78 days of unauthorized absence. Your request was granted on 17 November 1980 and you were thus able to avoid a court-martial sentence that could have concluded a bad conduct discharge and a


substantial period of confinement at hard labor. You received an OTH on 3 December 1980.

In its review of your application the Board concluded that in view of your lengthy period of unauthorized absence and your prior disciplinary record your discharge was proper as issued and should not be changed now as a matter of clemency. The Board believed that you were shown substantial clemency when your request for an OTH was granted in lieu of your being tried by court-martial.

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 PFETFFER
Executive Director