



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

TJR
Docket No: 1677-09
15 December 2009

[REDACTED]

[REDACTED]

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 8 December 2009. The names and votes of the members of the panel will be furnished upon request. 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 8 August 1988 at age 22 and began a period of active duty on 21 February 1989. You served without disciplinary incident until 22 October 1990, when you received nonjudicial punishment (NJP) for failure to obey a lawful order and drunken and reckless driving. The following year, on 27 September and again on 18 December 1991, you received NJP for two periods of failure to go to your appointed place of duty. About two months later, on 12 February 1992, you received your fourth NJP for nine specifications of uttering dishonorable checks in the amount of \$226.

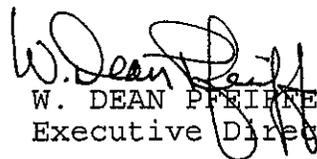
Your record reflects that during the period from 22 October 1990 to 27 August 1991 you received counselling on 10 occasions regarding deficiencies in your performance and conduct, specifically, your alcohol related incidents during Operation Desert Shield, nonrecommendations for promotion, weight control failure and assignment to a weight control program, misplacing safety gear, missing physical readiness training, and possession of an open container in a vehicle.

On 3 March 1992, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 19 March 1992 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. On 1 May 1992 the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 26 May 1991 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and assertions that your pattern of misconduct was unbecoming punishment and your discharge was unjust because you were misled by your superiors and not in the best 'favor' of your commanding officer because of your weight control problems. It also considered your desire to upgrade your discharge because you feel that you served honorably. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in four NJPs and counselling on numerous occasions regarding deficiencies in your performance and conduct. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Accordingly, your application has been denied.

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