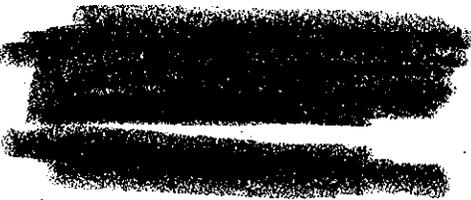




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TAL
Docket No: 3355-09
19 January 2010



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 5 January 2010. 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 and began a period of active duty on 16 July 1984 at age 18. On 12 April 1985, you were convicted by special court-martial (SPCM) of a 38 day period of unauthorized absence (UA). On 23 July 1985, you received nonjudicial punishment (NJP) for UA from your appointed place of duty. On 4 October 1985, you received NJP for violation of a lawful regulation and damage to military property valued at \$50.00. You were counseled and warned that further misconduct could result in administrative separation. On 25 March 1986, you received NJP for two instances of UA from your appointed place of duty and disobeying a lawful order. On 25 August 1986, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 27 August 1986, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions. On 8 September 1986, the discharge authority directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 19 September 1986 you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in one SPCM and three NJP's, two of which were imposed after you were counseled and warned of the consequences of further misconduct. The Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, no discharge is automatically upgraded due to the passage of time or an individual's good behavior after discharge. 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