



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

TAL
Docket No: 3358-09
19 March 2010

[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 10 March 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 1 October 1985 at age 18. On 14 September 1988, you received nonjudicial punishment (NJP) for failure to obey a lawful order. On 28 November 1988, you were convicted in civilian court of two counts of obtaining property by false pretense from the Marine Corps Federal Credit Union, in Jacksonville, North Carolina. You pled guilty and were sentenced to three years in custody of the North Carolina Department of Corrections. The sentence was suspended and you were placed on three years probation. You were counseled and warned that further misconduct could result in administrative discharge action. On 19 January 1989, you were convicted by summary court-martial (SCM) of three instances of unauthorized absence (UA) from your unit totaling a period of 12 days; wrongful disposition of government property, a M16A2 rifle, and two instances of wrongful use of marijuana and cocaine. On 1 March 1989 you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 24 March 1989, an ADB

recommended discharge under other than honorable (OTH) conditions by reason of misconduct due to a pattern of misconduct. Based on the information currently contained in your record it appears that subsequently, your commanding officer concurred with the ADB and forwarded your case to the discharge authority for review. On 2 May 1989, the separation authority directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 12 May 1989 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 NJP, a civilian conviction and a SCM of which was imposed after you were counseled and warned of the consequences of further misconduct. 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