



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

TAL  
Docket No: 3442-09  
28 January 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 13 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 Reserve and began a period of active duty on 7 November 1975 at the age 20. On 17 February 1978, you received nonjudicial punishment (NJP) for a 19 day period of unauthorized absence (UA) from your unit. On 16 May 1979, administrative discharge action was initiated by reason of misconduct as evidenced by your 79 absences of the required 144 scheduled reserve drills for the period of 10 October 1975 through 10 June 1979 and your NJP for UA from your unit while on involuntary active duty. On 16 May 1979, your letter of notification and statement of awareness was mailed to you by certified mail and was received on 21 May 1979. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB) when you failed to respond to the notification by 31 May 1979. On 17 June 1979, your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions. The separation authority directed an OTH discharge by reason of misconduct, and you were so discharged on 10 July 1979.

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 concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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