



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

TAL
Docket No: 3701-09
5 February 2010

[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 27 January 2010. 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 22 September 1970 at age 22 and served for a year and three months without disciplinary incident. However, on 10 December 1971, you received nonjudicial punishment (NJP) for disrespect and were awarded a reduction in paygrade, extra duty for 30 days, and a \$140 forfeiture of pay, which was subsequently suspended for four months. On 2 August 1972 you were convicted by special court-martial (SPCM) of reckless driving and absence from your appointed place of duty. You were sentenced to a \$100 forfeiture of pay, confinement at hard labor for 30 days, and reduction to paygrade E-1.

On 22 September 1972 you were transferred to the Marine Corps Reserve under honorable conditions. Subsequently, at the expiration of your enlistment, you were issued a general discharge. In this regard, character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your conduct average was 3.8. An average of 4.0 in conduct was required at the time of your discharge for a fully honorable characterization of

service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. It also considered your assertion that your offenses did not warrant conviction by court-martial. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in NJP and SPCM, and since your conduct average was insufficiently high to warrant an honorable discharge. 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