



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

SJN  
Docket No: 04313-09  
29 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 23 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 10 December 1982 at age 19. On 17 August and 26 September 1983, you received nonjudicial punishment (NJP) for disrespectful language, two instances of disobedience, four instances of communicating a threat, absence from your appointed place of duty, and destruction of government property. On 12 October 1983, you were counseled and warned that further misconduct could result in administrative discharge action. However, on 22 December 1983, you were convicted by special court-martial (SPCM) of disrespectful language, disobedience, and three days of unauthorized absence. You were sentenced to a forfeiture of pay, reduction in paygrade, and confinement at hard labor. On 7 March 1984, 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 14 March 1984, your commanding officer forwarded his recommendation that you be discharged under other than honorable

conditions by reason of misconduct. On 23 March 1984, the separation authority directed an other than honorable discharge by reason of misconduct. On 4 April 1984, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, and belief that you were being medically discharged. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your record of two NJP's, conviction by SPCM, and the fact that you were counseled and warned of the consequences of further misconduct. Further, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, your medical record shows that your problems with your feet were diagnosed in January 1984, after all of your misconduct occurred. 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 PREIFFER  
Executive Director