



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

TJR
Docket No: 4544-09
13 April 2010



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 13 April 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 28 July 1978 at age 18 and served without disciplinary incident until 13 September 1978, when you received nonjudicial punishment (NJP) for assault and battery. About eight months later, on 12 April 1979, you received NJP for absence from your appointed place of duty, disobedience, sleeping on post, and straggling.

On 25 January 1980 you were convicted by civil authorities of attempted grand theft and battery. You were sentenced to a \$500 fine and confinement for six months, which was subsequently suspended and you were placed on probation for three years. On 8 April and again on 1 May 1980, you received NJP for seven periods of absence from your appointed place of duty, disobedience, and two periods of unauthorized absence (UA) totalling nine days.

Your record reflects six periods of UA totalling 18 days and a period of absence from your appointed place of duty for which you did not receive disciplinary action. It also reflects that you were counselled on seven occasions regarding deficiencies in your performance and conduct.

Subsequently, you were administratively processed for separation by reason of misconduct due to the civil conviction. The discharge authority directed discharge under other than honorable conditions by reason of misconduct due to civil conviction, and on 18 August 1980, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities which resulted in four NJPs and a civil conviction. 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