



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

TJR
Docket No: 5773-09
24 May 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 18 May 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 23 April 1990 at age 18 and served without disciplinary incident until 16 August 1990, when you received nonjudicial punishment (NJP) for impersonating a lance corporal (LCPL).

During the period from 12 September to 4 December 1991 you received three more NJPs and were convicted by summary court-martial (SCM). Your offenses were two periods of absence from your appointed place of duty, wrongful possession of an altered identification card, wrongfully wearing a LCPL insignia, stealing perfume from an exchange, breaking restriction, possession of alcoholic beverages, disobedience, and a one day period of unauthorized absence.

Subsequently, you were processed for an administrative separation by reason of misconduct due to a pattern of misconduct. After waiving your procedural rights, the discharge authority directed

your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 10 January 1992, 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 and desire to upgrade your discharge. It also considered your assertion that you chose to be discharged because of personal and family issues. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in four NJPs and a SCM. Finally, you waived your procedural rights to an ADB, and by doing so you eliminated your right to defend yourself and the possibility of a better characterization of service. 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