



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

TAL
Docket No: 8842-09
4 June 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 2 June 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 and began a period of active duty on 18 September 1980 at age 17. You received nonjudicial punishment (NJP) on two occasions and were convicted by summary court-martial (SCM) for disrespect toward a noncommissioned officer, three instances of unauthorized absence (UA) from your unit for periods totaling 62 days and failure to go to your appointed place of duty. After your first NJP, you were counseled regarding your misconduct and warned that further offenses could result in administrative separation. On 13 May 1982, you were the subject of a mental health evaluation, in which it was stated in part, that you had an immature personality with no psychosis or neurosis. On 27 May 1982, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct (frequent involvement). After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). The ADB found that you committed misconduct and recommended that you be separated with an OTH discharge. On 30 August 1982, the

separation authority agreed with the recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct due to frequent involvement, and on 10 September 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as 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 that resulted in two NJPs, one SCM and periods of UA that totaled over two months. Concerning your alleged mental problems, there is no indication in the record that such problems existed at the time of your service, were so serious as to excuse you of responsibility for your actions or were sufficiently mitigating to warrant recharacterization. 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