



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

REC
Docket No: 09930-09
24 June 2010

[REDACTED]

[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 June 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 19 July 1972, at age 19. On 18 May 1973, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status for four days. On 6 July 1973, you received NJP for being UA for a period of 15 days. On 24 August 1973, you received NJP for being UA for a period of three days. On 20 November 1973, you were convicted at a special court-martial (SPCM) for being UA 18 days. You were sentenced to forfeitures of \$100, 15 days restriction, and confinement at hard labor for 30 days. On 21 January 1974, you received NJP for wearing an improper uniform. On 25 January 1974, you were convicted at a summary court-martial (SCM) for being UA six days. You were sentenced to forfeitures of \$150, and confinement at hard labor for 30 days. On 15 May and 19 June 1974, you received NJP's for being absent from your appointed place of duty. On 26 August 1974, you received NJP for being UA six days. On 10 September 1974, you received NJP for being UA five days. Between 17 October and 19 November 1974, you received three additional NJP's for period of UA totaling three days, and 10 hours. On 12 December 1974, you received NJP for willfully disobeying a lawful order.

On 2 January 1975, administrative discharge action was initiated by reason of unfitness. Your case was heard by an administrative discharge board (ADB), which voted two to one in favor of an other than honorable discharge. Your commanding officer concurred with the ADB's recommendation and forwarded his recommendation that you be discharged under other than honorable conditions by reason of misconduct for unfitness. On 19 February 1975, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reenlistment code or characterization of your discharge, given your record of 12 NJP's and convictions by one SPCM and one SCM.

In this regard, an RE-4 reenlistment code is required when an individual is discharged prior to the expiration of his term of active obligated service for misconduct and is not recommended for retention. 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