



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

SJN
Docket No: 10207-09
22 July 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 20 July 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 18 October 1990. The Board found that on 6 September and 11 October 1991, you were counseled regarding personal finances, uttering bad checks, and failure to be at your appointed place of duty. You were warned that further misconduct could result in administrative discharge action. However, on 7 January 1992, you were convicted by special court-martial (SPCM) of two specifications of indecent acts, two specifications of failure to go to your appointed place of duty, wrongfully having alcoholic beverages in the barracks, and uttering a bad check. Additionally, you received nonjudicial punishment (NJP) for absence from your appointed place of duty (morning formation). Subsequently, 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). Your case was forwarded recommending that you be discharged under other than honorable (OTH) conditions by reason of misconduct. The discharge authority concurred and directed an OTH discharge. On 23 June 1992, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your SPCM conviction, NJP, and the fact that you were counseled and warned on two occasions of the consequences of further misconduct. Finally, the Board noted that you waived the right to an ADB, your best chance for retention or a better characterization of service. 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