



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

SJN
Docket No: 11873-09
30 August 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 24 August 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 13 December 1988. The Board found you served without incident for over 20 years until 19 June 2009, when you were convicted by summary court-martial (SCM) of maltreatment and making a false statement. You were sentenced to a forfeiture of pay. Further, the Board found you entered into a pretrial agreement to plead guilty to certain charges and specifications. Prior to entering this agreement, you conferred with a qualified military lawyer, were advised of your rights, the meaning and effect of your guilty pleas, and their attendant effects and consequences.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your record of over 20 years of honorable service, Good Conduct Medals, and other numerous awards. Nevertheless, the Board found that these factors were not sufficient to warrant granting clemency in your SCM sentence given the pretrial agreement between you and the convening authority. Finally, the Board is expressly forbidden from reviewing the findings of guilt rendered by a court-martial

and must restrict its review to the appropriateness of the sentence. 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