



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

TJR
Docket No: 12307-09
3 September 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 1 September 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 24 October 1972 at age 21 and served for about four months without disciplinary incident, but on 22 February 1973, you began a period of unauthorized absence (UA) that was not terminated until you were apprehended and held in confinement by civil authorities on 11 April 1973. As a result of this action, on 6 June 1973, you were convicted by civil authorities of uttering a forged counterfeit check in the amount of \$250, and were sentenced to confinement for 18 months.

Subsequently, on 16 October 1973, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 27 December 1973 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On

24 September 1974 the discharge authority approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of misconduct due to civil conviction. On 25 October 1974, while in custody of civil authorities, you were so discharged, thus terminating a 610 day period of UA.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in conviction by civil authorities and a lengthy period of UA from the Marine Corps. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time. 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