



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

TJR
Docket No: 279-10
1 October 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 21 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 30 December 1987 at age 20. About four months later, on 23 April 1988, you were convicted by civil authorities of driving while intoxicated. Shortly thereafter, on 26 May 1988, you received nonjudicial punishment (NJP) for two specifications of drunk and disorderly conduct and being incapacitated for the performance of your duties due to over-indulgence in intoxicating liquor.

On 27 June 1986 you received NJP for failure to go to your appointed place of duty and failure to obey a lawful order. On 24 August 1989 you received your third NJP for failure to go to your appointed place of duty.

Subsequently, you were notified of pending administrative separation processing by reason of misconduct due to minor disciplinary infractions. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 27 October 1989 an ADB recommended discharge

under other than honorable conditions by reason of misconduct due to minor disciplinary infractions. As a result of this action, the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 1 December 1989, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, desire to upgrade your discharge, and the passage of time. It also considered your assertion that you fulfilled the necessary obligations for an upgrade of your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in three NJPs and conviction by civil authorities. 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