



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

REC
Docket No: 01928-10
18 November 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 17 November 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 reenlisted in the Marine Corps on 9 June 1984. On 1 February 1985, you were convicted at a summary court-martial (SCM) of failure to go to your appointed place of duty, being disrespectful toward the first sergeant, failure to obey a lawful order, and sleeping on post. You were sentenced to a forfeiture of \$100, reduction in pay grade, and confinement at hard labor for 20 days. On 20 April 1985, you were convicted by a civilian criminal court of armed robbery. You were sentenced to confinement for 185 days.

Your commanding officer recommended that you receive an under other than honorable (OTH) discharge by reason of misconduct. Subsequently, your case was forwarded, and the discharge authority approved the recommendation. You were so discharged on 16 December 1985.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and prior honorable service. Nevertheless, the Board concluded these factors were not sufficient to warrant

recharacterization of your discharge because of your misconduct that resulted in a civilian criminal conviction and confinement. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you may be eligible for veterans' benefits that accrued during your first period of service. Whether or not you are eligible for benefits based on this period of service is a matter under the cognizance of the Department of Veterans Affairs (DVA). If you have been denied benefits, you should appeal that denial under procedures established by the DVA.

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