



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

TJR  
Docket No: 3443-10  
17 February 2011

[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 15 February 2011. 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 23 April 1988 at age 19 and served for nearly a year without disciplinary incident. However, during the period from 14 March to 25 October 1989 you received nonjudicial punishment (NJP) on three occasions for disobedience and two specifications of uttering worthless checks. You also received NJP on three more occasions during the period from 15 June to 3 October 1990 for two periods of absence from your appointed place of duty, failure to obey a lawful order, and a one day period of unauthorized absence (UA). You were counselled on 15 occasions that further misconduct could result in administrative separation.

On 10 June 1991 you received your seventh NJP for uttering a worthless check in the amount of \$80. About three months later, on 16 September 1991, you were convicted by summary court-martial (SCM) of a nine day period of UA, absence from your appointed place of duty, disobedience, and wrongful appropriation of a

video cassette recorder (VCR). You were sentenced to a \$502 forfeiture of pay, reduction to paygrade E-1, and confinement for 30 days.

Subsequently, on 11 October 1991, you were notified of pending administrative separation action by reason of misconduct due to minor disciplinary infractions. After waiving your procedural rights to legal counsel and an administrative discharge board (ADB), your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to minor disciplinary infractions as evidenced by repetitive misconduct resulting in numerous counselling and multiple NJPs. On 17 December 1991 the discharge authority approved the foregoing recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 27 December 1991 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, desire to upgrade your discharge, and assertion that your absences from the Marine Corps were the result of serious family problems. It also considered your assertions of unfair treatment, being the victim of disrespect from your superiors, and being under duress. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in seven NJPs and counselling on 15 occasions. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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