



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

TAL
Docket No: 3515-10
18 February 2011

[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 16 February 2011. 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 15 January 1985 at age 19. You received nonjudicial punishment (NJP) on five occasions for disobeying a lawful written order, being drunk on duty, three instances of failure to go to your appointed place of duty, and writing insufficient fund checks totaling \$266. On 30 March 1988, you were convicted by summary court-martial (SCM) of the wrongful use of marijuana. The sentence awarded was confinement for 30 days, forfeiture of pay, and reduction in paygrade. You were counseled regarding your misconduct and warned that further offenses could result in administrative separation. Based on the information currently contained in your record it appears that you were subsequently involuntarily processed for separation with an other than honorable discharge (OTH) due to misconduct. You waived your right to an administrative discharge board (ADB). In connection with this processing, you would have acknowledged the separation action and the separation authority would have approved a recommendation for separation. The record clearly shows that on 29 July 1988, you were separated with an OTH discharge for misconduct due to a pattern of misconduct.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in five NJPs and a SCM. The Board noted that after you were counseled and warned that further misconduct could result in administrative separation, you committed another offense. The Board also noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Finally, no discharge is upgraded merely because of the passage of time or an individual's good behavior after discharge. 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 PRENTNER
Executive Director