



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

BAN
Docket No: 04194-10
14 January 2011



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 12 January 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.

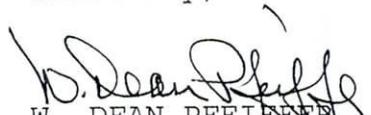
You enlisted in the Marine Corps on 30 May 1978, and served without disciplinary incident until 15 February 1980, when you received nonjudicial punishment (NJP) for unauthorized absence (UA). Shortly thereafter, you received the following NJP's: on 27 May 1980, for UA; on 8 December 1980, for failing to obey a lawful order; on 17 June 1981, for willful disobedience; on 6 July 1981 for assault; and on 5 January 1982, for missing ship's movement. In addition, you were in a UA status from 18 January to 3 May 1982, and were pending a court-martial. However, you requested through counsel, to be separated to escape a trial by court-martial. Your request was approved and on 15 June 1982, you were separated with an other than honorable (OTH) discharge and an RE-4 reenlistment code, in lieu of a trial by court-martial. As a result of this action, you were spared the stigma of court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your claim that your lieutenant never told you that your discharge was without benefits. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repeated acts of misconduct. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. It was clear to the Board that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Your request to have your social security number corrected on your DD Form 214 was already corrected on a DD Form 215 on 13 April 1983, (enclosure). Your request to have your address corrected needs to be sent to Headquarters Marine Corps (HQMC) for an administrative correction, not the Board. Send your request to HQMC (MMSR), 3280 Russell Road, Quantico, Virginia 22134.

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

Enclosure