



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

BJG
Docket No: 5568-10
18 February 2011



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 15 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You entered active duty in the Marine Corps on 28 June 1977. You received nonjudicial punishment on three occasions and were convicted by a special court-martial. Your offenses included carrying a concealed weapon, disobeying a lawful order, absence from your appointed place of duty, and a 41 day period of unauthorized absence. On 30 October 1979, you pled guilty to armed robbery in civilian court in Illinois, and were sentenced to seven years confinement. You were notified of pending

administrative separation processing with an under other than honorable conditions discharge due to misconduct (conviction by civil authorities). You elected to have your case heard by an administrative discharge board (ADB), which met and found that you had committed misconduct (conviction by civil authorities), and recommended your separation with an under other than honorable conditions discharge. The discharge authority concurred with the ADB's finding and recommendation. On 9 April 1980, you were discharged under other than honorable conditions due to misconduct (conviction by civil authorities), and assigned an RE-4 (not recommended for retention) reenlistment code.

In its review of your application, the Board carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, remorse, post service good conduct, and character reference letter. However, the Board concluded that your discharge should not be changed due to your numerous acts of serious misconduct. You are advised that no discharge is upgraded automatically due merely to the passage of time or post service good conduct. In view of the above, 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 PFEEFFER
Executive Director