



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

BAN
Docket No: 05576-10
31 January 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 26 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 12 June 1978, and serviced without disciplinary incident until 29 August 1978, when you received nonjudicial punishment (NJP) for failure to obey a lawful order. Shortly thereafter, you received the following disciplinary actions: on 27 February 1979, you received NJP for unauthorized absence (UA), and failure to obey a lawful order; on 3 April 1979, you received NJP for two specifications of failure to obey a lawful order and sleeping while on post; on 12 June 1980, you received NJP for three specifications of UA, and three specifications of failure to obey a lawful order; and on 25 June 1980, you received NJP for wrongful appropriation of property with a value of \$320.00. On 16 June 1981, you were discharged from active duty at the end of your obligated service. Upon your separation, you received a general discharge and an RE-4 reenlistment code.

Characterization of service is based in part on proficiency and conduct marks assigned on a periodic basis. Your proficiency average was 4.0 and your conduct average was 3.9. You needed a 4.0 in conduct at the time of your separation for a fully honorable characterization of service.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and belief that enough time has elapsed to warrant upgrading your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repeated acts of misconduct and insufficiently high conduct mark average. There is no provision of law or in Navy regulations that allows for recharacterization of service due solely to the passage of time. Furthermore, the Board believed that considerable leniency was extended to you to allow you to be separated at the end of your obligated service with a general discharge instead of a lesser discharge due to a pattern of misconduct. 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 PFEIFFER
Executive Director