



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

REC
Docket No: 05785-10
23 June 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 22 June 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. The Board also considered the advisory opinions from Headquarters Marine Corps, dated 21 April and 2 May 2011, copies of which are enclosed.

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 24 November 1986. On 14 April 1990, you were placed on a command urinalysis surveillance program. On 7 March 1990, you received counseling concerning your nonsupport of your dependents. On 20 May 1990, you received counseling concerning your failure to pass a sobriety test. On 30 July 1990, you were reduced in pay grade for an unknown offense. Your record is incomplete, however, your Certificate of Release or Discharge from Active Duty (DD Form 214) is documented with the narrative reason for separation as conduct triable by court-martial (request for discharge for the good of the service), and signed by you and the executive officer. Your proficiency mark average was 3.4, and conduct mark average was 2.0, which are below average, as a 4.0 and 3.0 average are required for an honorable discharge. Apparently, you submitted a request for a good of the service discharge to avoid trial by court-martial for an unknown reason. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your

rights, and warned of the probable adverse consequences of accepting such a discharge. Your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions by reason of conduct. Your request for discharge was granted and on 17 August 1990, you received an OTH discharge for the good of the service in lieu of trial by court-martial. As a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. At that time you were assigned an RE-4 reentry code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct and performance, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reason or characterization of your discharge, given your record of misconduct, and the fact that you were counseled and warned of the consequences of further misconduct. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and 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.

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

Enclosures