



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

RDZ:ecb
Docket No. 06231-10
30 August 2010

[REDACTED]

[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 25 August 2010. 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 enlisted in the Marine Corps on 29 June 1999 for a term of four years. Unfortunately you only served a little more than two years and six months when you were discharged with an other honorable discharge (OTH) due to frequent acts of misconduct. More specifically between May and November of 2001 you received three nonjudicial punishment for being disrespectful to a noncommissioned officer, two instances of willfully disobeying an order issued by a noncommissioned officer, sleeping on post and falling asleep while on firewatch. Based on your record of disciplinary infractions your commanding officer recommended that you receive an OTH. When you were informed that you were being considered for OTH you waived your right to appear before an administrative board where with the assistance of a military lawyer you could have requested retention

or a better discharge. Consequently you were issued an OTH on 25 January 2002.

Although the Board was favorably impressed with your post service accomplishments it concluded that they could not overcome your frequent acts of misconduct. Moreover your record shows that prior to your discharge you received four counseling sessions during which were warned continued acts of misconduct could result in the issuance of an OTH. The Board also noted that you waived your to an administrative discharge board which clearly indicates your willingness to receive an OTH rather serve out your enlistment.

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