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

REC
Docket No: 06650-10
17 March 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 16 March 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 and began a period of active duty on 2 February 1972. On 23 December 1974, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status for 42 days. On 28 February 1975, you received NJP for being absent from your appointed place of duty. On 7 March 1975, you commenced a period of UA which lasted three days. On 21 March 1975, you received NJP for four incidents of failure to go to your appointed place of duty. Your misconduct continued as you commenced a period of UA on 24 April 1975, which lasted 76 days. On 17 July 1975, you submitted a request for a good of the service discharge to avoid trial by court-martial for being UA a total of 79 days. 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 for the good of the service to avoid trial by court-martial. Your request for discharge was

granted and on 17 July 1975, 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 reenlistment 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 three NJP's, lengthy period of UA, and request for discharge. 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

W. DEAN PFEIFFER
Executive Director