



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

REC
Docket No: 08312-10
21 April 2011

[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 20 April 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 active duty on 16 June 1978. On 6 September 1979, you were convicted by a special court-martial (SPCM) of two incidents of assault with a dangerous weapon, being drunk and disorderly, and threatening to kill a fellow Marine. You were sentenced to a forfeiture of \$200, and seven days restriction. On 25 March 1980, you received nonjudicial punishment (NJP) for failure to obey a lawful order. On 16 January 1981, you were in the custody of civilian authorities for three days. On 13 April 1981, you were in civilian custody for 140 days, and an additional seven day period on 3 September 1981. Administrative separation action was initiated by reason of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be discharged under other than honorable (OTH) conditions by reason of misconduct. The discharge authority directed an OTH discharge by reason of misconduct. On 20 November 1981, you were discharged and

received an OTH characterization of service by reason of your misconduct. 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 overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your discharge, given your record of one conviction by SPCM and one NJP for misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. You are advised that an RE-4 reenlistment code is required when an individual is discharged for misconduct and is not recommended for retention. 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