



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

REC
Docket No: 09068-10
5 May 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 4 May 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 reenlisted in the Marine Corps on 19 January 1972 after serving honorably in the Navy. On 24 January 1973, you received nonjudicial punishment (NJP) for disobeying a lawful order. On 25 January 1973, you received NJP for disobeying a lawful order, and two incidents of failure to go to your appointed place of duty. On 29 July 1973, you received NJP for being in an unauthorized absence (UA) status, failure to obey a lawful order, disobeying a lawful order, being disrespectful toward a senior noncommissioned officer, and reckless driving. On 23 August 1973, you received NJP for being absent from your appointed place of duty, and drinking alcoholic beverages while in a duty status. On 10 September 1973, you received NJP for breaking restriction. On 10 January 1975, you received NJP for being absent from your appointed place of duty. On 15 August 1975, you were convicted by a summary court-martial (SCM) of being UA on three occasions. You were sentenced to a forfeiture of \$200, reduction in pay grade, and 40 days restriction. On 16 September 1975, you received NJP for destroying four windows. On 17 September 1975, you submitted a request for a good of the service discharge to

avoid trial by court-martial for failure to obey a lawful order, and dishonorably failing to pay just debt on five occasions, totaling \$363.63. Prior to submitting this request for discharge, you conferred with a qualified military lawyer, were advised of your rights, and were 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 the good of service. Your request for discharge was granted and on 7 November 1975, you received an OTH discharge for the good of the service. 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 characterization of your service, given your seven NJP's, one conviction by a SCM, 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
Executive Director