



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

REC
Docket No: 10658-10
8 August 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 3 August 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 17 October 1974. On 4 October 1976, you were convicted by a special court-martial (SPCM) of assaulting a fellow Marine, failure to go to your appointed place of duty, and sleeping on post. You were sentenced to reduction in pay grade, and confinement at hard labor for 75 days. On 29 September 1978, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status on two occasions, which totaled 21 days. On 20 October 1978, you received NJP for being UA for three days. On 19 January 1979, you received NJP for being UA for ten days. On 28 March 1979, you were convicted by a second SPCM of being absent from your appointed place of duty, being UA for 16 days, disobeying a lawful order, failure to obey a lawful order by driving without a valid driver's license and insurance, possessing an unauthorized decal for your vehicle, and not having a regulation haircut. You were sentenced to forfeitures of \$300, reduction in pay grade, and confinement at hard labor for 75 days. On 19 July 1979, you received NJP for being UA on two occasions, totaling three days. On 23 March 1980, you received a fifth NJP for being disrespectful toward a commissioned officer.

On 11 March 1982, 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. Your record is incomplete, however, it appears that you were discharged with an OTH discharge by reason of misconduct shortly after 12 March 1982. 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 five NJP's, and two convictions by SPCM's of 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 noted, that you may request a copy of your Certificate of Release or Discharge from Active Duty (DD Form 214) from the Marine Corps Headquarters, if you so desire.

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