



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

TAL
Docket No: 158-11
30 September 2011



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 28 September 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 6 September 1977 after more than two years of prior honorable service. On 14 September 1977, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. Based on the information currently contained in your record it appears that you were admitted to the Naval Drug Rehabilitation Center at Naval Air Station Miramar, San Diego, California, on 8 June 1979. You completed the rehabilitation program and returned to full duty. On 8 June 1979, you received NJP for unauthorized absence from your unit for a period of four days, two instances of failure to obey a lawful order, and being incapacitated for the performance of duty. On 17 August 1979, you were convicted by a summary court-martial (SCM) of assault, failure to obey a lawful general regulation and communicating a threat. The sentence imposed was confinement for 30 days and a reduction in paygrade. On 17 July 1981, you were convicted by special court-martial (SPCM) of UA from your unit for a period of 73 days. The sentence imposed was confinement for three months, reduction in paygrade and a bad conduct discharge BCD. On 28 October 1982, you received the BCD after appellate review was complete.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and prior honorable service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs, a SCM, a SPCM and periods of UA that totaled over two months. 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