



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

REC  
Docket No: 00670-11  
27 October 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 26 October 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 on 10 February 1976, at the age of 18. On 5 July 1976, you received nonjudicial punishment (NJP) for disobeying a lawful written order on two occasions. On 2 September 1976, you received NJP for sleeping on watch. On 20 September 1976, you received NJP for being absent from your appointed place of duty, being in an unauthorized absence (UA) status for one day, and failing to sign restriction documents. On 12 November 1976, you received counseling concerning your poor attitude, lack of motivation, poor personal appearance, unsatisfactory conduct and poor performance of duties. Between 28 April and 13 September 1977, you were UA a total of 91 days. On 14 September 1977, you submitted a request for a good of the service discharge in order to avoid trial by court-martial for the periods of UA. 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. On 30 September 1977, your request for discharge was granted. However, your

misconduct continued and on 16 April 1978, you received NJP for two incidents of sleeping on watch. On 15 May 1978, you received a general discharge for unsuitability.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your misconduct, and request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. 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. Further, you are advised that there is no provision in the law or Navy regulations that allows for recharacterization of your discharge automatically due solely to the passage of time. The Board found that you were fortunate to receive a general discharge, since a discharge under other than honorable conditions is normally directed in cases such as yours. 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