



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

TJR
Docket No: 1330-11
8 November 2011



This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 2 November 2011. The names and votes of the members of the panel will be furnished upon request. 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 11 May 1972 at age 18. You served for nearly a year without disciplinary incident, but during the period from 4 May to 5 December 1973 you received nonjudicial punishment (NJP) on three occasions for two specifications of wrongfully exposing yourself and urinating on the deck, a seven day period of unauthorized absence (UA), and two specifications of failure to obey a lawful order. On 10 January 1974 you were convicted by summary court-martial (SCM) of two specifications of disrespect, contempt, and three specifications of disobedience.

Subsequently, you were processed for an administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After waiving your procedural rights, the discharge authority directed discharge under other than honorable conditions by reason of misconduct, and on 27 March 1974, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in three NJPs and a SCM. Finally, you were given an opportunity to defend yourself and perhaps receive a better characterization of service, but waived your procedural right to legal counsel and to present your case to an administrative discharge board. Accordingly, your application has been denied.

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