



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

TJR
Docket No: 2243-11
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 2 April 1980 at age 18 and served without disciplinary incident until 5 August 1981, when you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. On 17 December 1981 you received NJP for two specifications of disrespect.

On 17 February 1982 you were convicted by special court-martial (SPCM) of a 24 day period of unauthorized absence (UA) and breaching restraint from correctional custody. On 21 May 1982 you received your third NJP for two specifications of failure to obey a lawful order. About two months later, on 19 July 1982 you were convicted by SPCM of wrongful possession of marijuana and unregistered firearms and ammunition. Although the record is incomplete, it appears that you were sentenced to an unspecified period of confinement and forfeitures, and a bad conduct discharge (BCD). On 7 September 1982 the BCD was approved at all levels of review, and on 16 February 1983, you were issued a BCD.

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. It also considered your assertion of inadequate and incompetent legal representation. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your repetitive misconduct, which included drug abuse, illegal possession of firearms, and a lengthy period of UA from the Marine Corps. 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