



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 4139-11
10 February 2012

[REDACTED]

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 7 February 2012. 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 reenlisted in the Marine Corps on 17 August 2000 after four years of prior service. You continued to serve without disciplinary infraction until 2 February 2001, when you were counselled regarding physically handling students. About three months later, on 29 May 2001, you received nonjudicial punishment (NJP) for assault on a camp guard sentry. Shortly thereafter, during the period from 6 to 21 September 2001, you participated in an intensive outpatient alcohol treatment program in which you were discharged after completing with minimal success. You were diagnosed with alcohol dependency and recommended for continued treatment.

On 11 January 2002 you were convicted by summary court-martial (SCM) of absence from your appointed place of duty, three specifications of disrespect, two specifications of disobedience, four specifications of failure to obey a lawful order, fraternizing, using provoking words, drunk and disorderly conduct, and assault. You were sentenced to a \$736 forfeiture of pay, reduction to paygrade E-1, and confinement for 30 days.

On 5 March 2002 you were notified of pending administrative separation action by reason of misconduct due to commission of a serious offense and alcohol rehabilitation failure. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On 14 April 2002 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to commission of a serious offense and alcohol rehabilitation failure. Subsequently, the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 13 May 2002 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior satisfactory service and desire to upgrade your discharge. It also considered your assertion of unjust treatment and unjust persecution. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertions. 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