



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD SUITE 1001

ARLINGTON VA 22204-2490

BAN

Docket No: 04537-11

7 February 2012

[REDACTED]

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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. 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 entered active duty service in the Marine Corps on 11 May 1977, and served without disciplinary incident until 5 May 1978, when you received nonjudicial punishment (NJP) for sleeping on post. Shortly thereafter, you received the following NJP's: on 6 September 1978, for an unauthorized absence (UA); on 2 May 1979 for UA and failure to obey a lawful order; on 14 May 1979 for UA and failure to obey a lawful order; on 13 July 1979 for UA in excess of eight days; and on 11 September 1979, for two specifications of UA in excess of 13 days. In addition, on 14 November 1979, you were convicted at a special court-martial (SPCM) of disrespect, disobeying a lawful order and communicating a threat. You were sentenced to receive a bad conduct discharge (BCD). Therefore, you were separated with a BCD and an RE-4 reenlistment code due to your conviction at a SPCM. You received the BCD after appellate review on 19 October 1981.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, claim that your SPCM was "thrown out" on appeal (unsubstantiated), racism, and need of health care. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Regarding your claim of being the victim of racism, you have provided no evidence to support this, and there is no such evidence in your record. 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