



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

SJN
Docket No: 00439-13
23 October 2013

[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 22 October 2013. 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.

On 8 February 1986, you reenlisted in the Marine Corps after serving over five years of honorable service. The Board found that on 23 July 1986, you were convicted by civil authorities of indecent liberties with a minor. You were sentenced to three years imprisonment. Subsequently, administrative discharge action was initiated by reason of misconduct due to civil conviction. You were notified of this pending administrative separation action and elected to consult counsel and have your case heard by an administrative discharge board (ADB). On 7 January 1987, an ADB found that you had committed misconduct due to civil conviction, and recommended that you receive an other than honorable (OTH) discharge. Your case was forwarded and the separation authority directed that you be separated under OTH conditions by reason of misconduct due to civil conviction. You were so discharged on 7 April 1987.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, post service accomplishments, character letters, and desire to upgrade your discharge. Nevertheless, the

Board found that these factors were not sufficient to warrant any change in your discharge given your civil conviction and ensuing incarceration for a very serious offense. 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