



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

TJR
Docket No: 1532-00
28 June 2000

[REDACTED]

Dear [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 13 June 2000. 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.

The Board found you enlisted in the Marine Corps on 26 August 1974 at the age of 18. Your record reflects that you served for nearly a year without incident. However, during the six month period from 12 June until 3 December 1975 you received nonjudicial punishment (NJP) on four occasions for two periods of absence from your appointed place of duty, disobedience, three specifications of failure to obey a lawful order, and two incidents of failure to go to your appointed place of duty.

Your record further reflects that on 7 January 1976 you were convicted by summary court-martial (SCM) of stealing of two tires valued at \$100 and sentenced to confinement at hard labor for 30 days and a \$150 forfeiture of pay. Shortly thereafter, on 13 February 1976, you received NJP for absence from your appointed place of duty and were awarded forfeitures totalling \$75. On 13 May 1976 you received your sixth NJP for absence from your appointed place of duty. The punishment imposed was a \$50 forfeiture of pay.

On 1 June 1976 you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 29 June 1976 an ADB recommended you be issued an other than honorable discharge by reason of misconduct. On 7 July 1976 the discharge authority directed your commanding officer to issue you an other than honorable discharge. On 23 July 1976 you were so discharged.

The Board, in its review of your entire record and application considered all mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you would like your discharge upgraded since approximately 24 years have passed since your separation. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct which resulted in six NJPs and a court-martial conviction. Further, no discharge is upgraded merely because of the passage of time. Given all the circumstances of your case the Board concluded your discharge was proper as issued and no change is warranted. 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