



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

ELP
Docket No. 3209-01
31 August 2001

[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 Navy Records, sitting in executive session, considered your application on 29 August 2001. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 18 September 1979 for four years at age 19. The record reflects that you were advanced to PFC (E-2) and served for nearly nine months without incident. However, during the six month period from June to December 1980 you received three nonjudicial punishments (NJP) for failure to obey a lawful order, two instances of absence from your appointed place of duty, and possession of a pipe containing marijuana residue. On 22 January 1981, a suspended reduction in rank awarded at your third NJP was vacated and ordered executed.

On 23 February 1981 you were separated under the expeditious discharge program with a general discharge.

Regulations provided that individuals discharged under the expeditious discharge program would receive the type of discharge

warranted by the service record. Character of service is based, in part, on conduct and proficiency averages which are computed from marks assigned during periodic evaluations. Your final conduct and proficiency averages were 2.8 and 3.0, respectively. A minimum average conduct mark of 4.0 was required for a fully honorable characterization at the time of your discharge.

In its review of your application, the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and the fact that it has been more than 20 years since you were discharged. The Board noted your contention that you were told that after six months, your discharge would be upgraded. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of three NJPs in only 17 months of service, and the fact that you failed to achieve the required average in conduct. The Board believed that you were fortunate that the commanding officer did not process you for a discharge under other than honorable conditions. There are no automatic provisions for upgrading a discharge. Even if you were told that the discharge would be upgraded after six months, that does not provide a valid basis for recharacterizing service. The Board thus concluded that the discharge was proper 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