



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

TJR
Docket No: 6798-01
20 March 2002

[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 12 March 2002. 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 22 May 1981 at the age of 19. Your record reflects that you served for a year and five months without disciplinary incident but on 20 October 1982 you received nonjudicial punishment (NJP) for failure to obey a lawful order, disrespect, assault, and communicating a threat. The punishment imposed was extra duty and restriction for 14 days and a \$155 forfeiture of pay.

Your record further reflects that on 21 March 1984 you were convicted by special court-martial (SPCM) of three specifications of assault. You were sentenced to confinement at hard labor for 75 days, reduction to paygrade E-1, a \$600 forfeiture of pay, and a bad conduct discharge (BCD). On 27 April 1984 you submitted a written request for restoration to duty. However, this request was subsequently denied, and after the BCD was approved at all levels of review, you were so discharged on 31 December 1984.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and your contentions that you were

unable to provide witnesses during your court-martial and that the BCD is excessive punishment because other Marines who were convicted by courts-martial were retained in the Marine Corps. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your serious misconduct, specifically, four specifications of assault. Further, the Board noted that there is no evidence in the record, and you submitted none, to support your contentions. 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