



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

TJR
Docket No: 2109-02
12 September 2002

[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 10 September 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.

You enlisted in the Marine Corps on 21 March 1972 at the age of 17. You served a year and two months without disciplinary incident but on 31 May and again on 3 July 1973 you received nonjudicial punishment (NJP) for two specifications of failure to go to your appointed place of duty. On 15 November 1973 you received your third NJP for one day of unauthorized absence (UA) and were awarded a \$50 forfeiture of pay which was suspended for three months.

On 4 December 1973 you began a 464 day period of UA. During this period you were apprehended by civil authorities and on 13 February 1974 you were convicted of housebreaking and larceny. You were sentenced to confinement for five years, three of which were suspended. On 19 November 1974, while in custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to conviction by civil authorities. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. Your commanding officer recommended discharge by reason of misconduct due to civil

conviction. The discharge authority approved this recommendation and directed an other than honorable discharge by reason of misconduct due to civil conviction, and on 11 March 1975 you were so discharged.

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 not given an opportunity to remain on active duty and that you were improperly discharged. Nevertheless, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in three NJPs and a conviction by civil authorities. 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