



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

TJR
Docket No: 5247-01
31 January 2002



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 23 January 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 Reserve on 10 December 1972 at the age of 18. You began a period of extended active duty on that same day. On 26 June 1973 you were honorably released from active duty at the expiration of your active obligated service.

Your record reflects that on 26 July 1973, while in a drilling status, you were arrested by civil authorities and charged with theft of property valued at \$140.23. On 27 July 1973 you were charged by civil authorities of breaking and entering. During the period from 4 to 19 August 1973 you were in an unauthorized absence (UA) status for a period of 15 days from active duty training. The record also reflects that on 25 September 1973 you appeared in civil court and plead not guilty to the two foregoing civil charges. However, on 14 December 1973, you changed your plea to guilty on the charges of grand larceny and breaking and entering. On 2 January 1974 you were sentenced to probation for three years on these charges.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected to

present your case to an administrative discharge board (ADB). On 3 April 1974 an ADB recommended you be separated with an undesirable discharge by reason of misconduct due to civil conviction. On 27 January 1974 your commanding officer also recommended an undesirable discharge by reason of misconduct.

Your record further reflects that on 27 July 1974 the clerk of the civil court reported that you had been arrested for sniffing glue and five specifications of probation violation, and had been directed to serve a sentence to confinement for 1 to 3 years. On 25 March 1975, while you were in the custody of civil authorities, the discharge authority directed an undesirable discharge, and on 7 April 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 contention that civil authorities revoked the conditions of your release because you were to serve in the Marine Corps Reserve. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct in the civilian community. The Board noted that you submitted no evidence in support of your contention, and the record contains no such evidence. 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