



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

SMS
Docket No: 7929-08
11 May 2009

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 6 May 2009. 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.

On 27 December 1977, you enlisted in the Marine Corps at age 17 with parental consent. During the period 6 June 1979 to 10 June 1980, you had nonjudicial punishment (NJP) on three occasions. Your offenses included two brief instances of unauthorized absence and absence from your appointed place of duty. On 15 June 1980, your security clearance was terminated for cause. On 18 July 1980, you had NJP for two instances of absence from your appointed place of duty. On 24 July 1980, you were counseled regarding your frequent discreditable involvement and warned that further infractions could result in administrative separation. On 22 October 1980, you were assigned to a work detail because you ignored repeated counseling regarding your performance and behavior. On 11 December 1980, you were convicted by a summary court-martial for three instances of failure to go to your appointed place of duty at the time prescribed and willful disobedience of a

lawful order. Nevertheless, on 13 January 1981, you were released from active duty under honorable conditions due to the expiration of enlistment. On 25 September 1983, you were separated with a general discharge due to the expiration of obligated service.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and belief that your discharge would change after six months. Nevertheless, the Board found that these factors and belief were not sufficient to warrant recharacterization of your service. In this regard, characterization of service for members who are released from active duty or discharged due to the expiration of their active or obligated service is determined by their conduct, actions, and proficiency and conduct marks assigned on a periodic basis. Minimum acceptable average proficiency and conduct marks of 3.0 and 4.0, respectively, were required to form the basis for a fully honorable characterization of service. Your average proficiency and conduct marks were 4.1 and 3.9, respectively. Given your repetitive misconduct and failure to attain the conduct mark average required for a fully honorable characterization of service, the Board found that your service warranted a general characterization of service, and further noted that you were fortunate to have received such a discharge since you met the requirements to be discharged for misconduct. Furthermore, there is no provision in the law or regulations that allows for recharacterization of service due solely to the passage of time. Therefore, the Board concluded that the 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