



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

REC
Docket No: 4078-09
21 October 2009

[REDACTED]

[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 21 October 2009. The names and votes of the members of the panel will be furnished upon request. 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 14 February 1978, at age 17 and began a period of active duty on 28 July 1978. You served for two years and four months without disciplinary incident, but during the period from 4 July to 21 October 1980, you received nonjudicial punishment (NJP) on four occasions for sleeping on post, wrongful appropriation of a truck worth \$5,000, three specifications of making false official statements, and failure to obey a lawful order by consuming alcoholic beverages in the barracks.

During the period from 13 March to 21 April 1981, you received three more NJP's for disrespect, two specifications of failure to obey a lawful order, an 11 day period of unauthorized absence (UA), breaking restriction, and disobedience.

Although the discharge documentation is not in your record, it appears that you requested discharge for the good of the service to avoid trial by court-martial. Regulations required that before making such a request, a Marine must be advised by military counsel concerning the consequences of such a request. Since the record shows that you were discharged by reason of good of the service to avoid trial by court-martial on 13 July 1981, the Board presumed that the foregoing occurred in your case. Because you requested discharge in lieu of trial by court-martial, you avoided the possibility of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to change the characterization of your service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in NJP on several occasions, and your request for discharge. The Board believed that considerable clemency was extended to you when your request for discharge was approved. The Board further concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and should not be permitted to change it now. Accordingly, your application has been denied.

Regarding your request for a copy of your service and/or medical record, please be advised that the Board is not the authorized custodian for personnel records, and does not maintain copies of these records. However, you may obtain a copy of your naval record by submitting the enclosed Request Pertaining to Military Records, SF 180, to National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, Missouri 63132.

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

Enclosure