



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TJR
Docket No: 12523-11
4 October 2012

[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 2 October 2012. 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 3 September 1980 at age 17 and immediately began a period of active duty. You served for about seven months without disciplinary incident, but on 19 May and again on 20 August 1981, you received nonjudicial punishment (NJP) for absence from your appointed place of duty and failure to obey a lawful order.

On 18 March 1982 you were convicted by summary court-martial (SCM) of disobedience and disrespect. About four months later, on 21 July 1982, you received your third NJP for wrongful possession of marijuana. Shortly thereafter, you were counselled regarding the seriousness of illegal drug use and possession. You were warned that such offenses warranted NJP, administrative separation, denial of base privileges, withdrawal of off-base living, eviction of government family housing, and civil arrest.

On 2 August 1982 you were notified of pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At that time

you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. The discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct and on 26 August 1982 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, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in three NJPs, counselling, and an SCM; and included drug abuse. Further, you were given an opportunity to defend your actions, but waived your procedural right to present your case to an ADB. Finally, no discharge is automatically upgraded due solely to the passage of time. Accordingly, your application has been denied.

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