



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

ELP
Docket No. 169-99
27 May 1999

[REDACTED]

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 19 May 1999. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 14 December 1992 for four years at age 18. The record reflects that you served without incident for more than eight months. However, during the two month period from August to September 1993 you received two nonjudicial punishments for two periods of unauthorized absence (UA) totalling about 12 days, absence from your appointed place of duty, and two instances of disobedience.

On 2 February 1994, you were convicted by special court-martial of a 31 day period of UA from 26 October to 26 November 1993, and misappropriation of an automobile belonging to another serviceman. You were sentenced to confinement at hard labor for 90 days, forfeitures of \$250 per month for three months, and a bad conduct discharge. On 25 July 1994, the convening authority approved the sentence, but suspended that portion extending to confinement in excess of 60 days for a period of 12 months. The Navy-Marine Corps Court of Criminal Appeals affirmed the findings and the sentence on 10 January 1995. On 4 April 1996 you received the bad conduct discharge and an RE-4 reenlistment code.

In its review of your application, the board carefully weighed all potentially mitigating factors such as your youth and immaturity. The Board noted your contention that the confinement and forfeitures were enough punishment, but the bad conduct discharge has ruined your life. The Board concluded that the foregoing factor and contention were insufficient to warrant recharacterization of your discharge given your record of two NJPs and a conviction by a special court-martial in only 14 months of service. Trial by special court-martial was warranted by the seriousness of the offenses charged. The conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. When an individual receives a punitive discharge, an RE-4 reenlistment code is required. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that the discharge and reenlistment code were proper 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