



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 6016-98

12 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 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 11 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 13 August 1970 at age 19. The record shows that you received nonjudicial punishment on four occasions. Your offenses were a short period of unauthorized absence, assault, disobedience and disrespect.

Because of leg pain caused by the residuals of a gun shot wound you received prior to entering the Marine Corps, you were processed for a medical discharge. Subsequently, a medical board recommendation for discharge was approved due to a physical disability, which existed prior to your entry in the Marine Corps. You received a general discharge on 3 July 1972.

Character of service is based, in part, on conduct and proficiency averages, which are computed from marks assigned during periodic evaluations. Your conduct mark average was 3.8. A minimum average mark of 4.0 in conduct was required at the time of your separation for a fully honorable characterization of service.

In its review of your application the Board carefully weighed all

potentially mitigating factors, such as your youth and documentation you submitted showing that you have been a good citizen for many years. The Board also considered your contention, in effect, that your disciplinary problems occurred because you were under stress due to the physical problem which led to your discharge. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your disciplinary record and failure to achieve the required average mark in conduct. The Board further found that leg pain was not sufficient to excuse or mitigate your misconduct. The Board concluded that the discharge was proper as issued and no change was 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