



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

TJR
Docket No: 493-01
28 June 2001

[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 26 June 2001. 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.

The Board found you enlisted in the Marine Corps on 27 February 1972 at the age of 17. Your record reflects that you served for a year without disciplinary incident but on 20 March 1973 you received nonjudicial punishment (NJP) for a 10 day period of unauthorized absence (UA) and were awarded restriction for 14 days and a \$150 detention of pay. Shortly thereafter, on 23 May 1973, you received NJP for a day of UA and were awarded correctional custody for 14 days. On 5 November 1973 you were convicted by special court-martial of three periods of UA totalling 49 days and breaking restriction. You were sentenced to confinement at hard labor for a month, a \$210 forfeiture of pay, and reduction to paygrade E-1. The confinement was suspended for four months.

Your record further reflects that on 24 April 1974 you received NJP for a 12 day period of UA and on 17 July 1974 you were convicted by SPCM of a 10 day period of UA. On 5 November 1974 you were convicted by summary court-martial (SCM) of a 22 day period of UA and were sentenced to confinement at hard labor for 30 days and a \$200 forfeiture of pay.

On 28 January 1975 you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel, you waived your rights to present your case to an administrative discharge board and to submit a statement in rebuttal to the discharge action. The commanding officer recommended an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities as evidenced by the frequent periods of UA. Subsequently, the discharge authority directed an other than honorable discharge by reason of misconduct, and on 27 February 1975 you were so discharged and assigned an RE-4 reenlistment code.

The Board, in its review of your application and your entire record, carefully weighed all potentially mitigating factors, such as youth and immaturity, and your contentions that you could not serve properly even though you tried, and that you were unfairly denied a compassionate reassignment. The Board also considered your contentions that your ability to serve was impaired by personal problems, use of alcohol and drugs, and certain other problems. The Board further considered your contentions that you should not continue to suffer the adverse consequences of an undesirable discharge, and that under current standards you would not have received such a discharge. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge or a change in the narrative reason for separation or reenlistment code because of the serious nature of your repetitive and lengthy periods of UA, which resulted in six disciplinary actions in three years of service. Given all the circumstances of your case, the Board concluded your discharge, narrative reason for separation, and reenlistment code were proper as issued and no change is warranted. Further, an RE-4 reenlistment code is required when an individual is separated under other than honorable conditions. The Board also noted that there is no evidence in the record, and you submitted none, to support your contentions. Finally, the Board noted that under current standards, you could receive the same type of discharge for the misconduct of record. 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