



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

SMW

Docket No: 10259-07
14 July 2008

[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 9 July 2008. 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.

On 22 June 1983, you enlisted in the Marine Corps at age 17 with parental consent. On 2 July and 6 November 1984, you had nonjudicial punishment (NJP) for dereliction in the performance of your duties, a brief instance of unauthorized absence, and failure to go to your appointed place of duty. On 20 December 1984, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or administrative separation. During the period 28 December 1984 to 10 October 1985, you had two NJP's and were convicted by a special court-martial. Your offenses included two instances of failure to go to your appointed place of duty, making a false official statement, wrongful appropriation of a fan, and disobedience of a lawful order. On 28 October 1985, you were counseled regarding an alcohol related incident and warned that

further infractions could result in administrative separation. You were subsequently charged with driving without a license.


On 18 November 1985, your commanding officer initiated administrative separation by reason of misconduct due to minor disciplinary infractions. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and elected to have your case heard by an administrative discharge board (ADB). On 19 November 1985, you had NJP for driving without a license. On 17 January 1986, an ADB found that you were guilty of misconduct due to minor disciplinary infractions and recommended a general discharge. On 28 March 1986, the separation authority approved the discharge recommendation and directed a general discharge by reason of misconduct due to minor disciplinary infractions. On 11 April 1986, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and contention that a thorough investigation was not conducted prior to your court-martial which, if conducted, would have revealed misconduct by other Marines at your command. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct that continued after you were warned that further infractions could result in administrative separation. Furthermore, there is no evidence in the record to support your contention. But, even if there were such evidence, that would not excuse your misconduct. Therefore, the Board concluded that the discharge was proper as issued 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