



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

TJR
Docket No: 5792-09
24 May 2010

[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 18 May 2010. 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 18 September 1969 at age 17 and served for a year without disciplinary incident. However, on 16 September 1970, you received nonjudicial punishment (NJP) for disobedience.

During the five day period from 24 to 19 April 1971 you were in an unauthorized absence (UA) status. However, the record does not reflect the disciplinary action taken for this misconduct. Shortly thereafter, on 18 May 1971, you began another period of UA that was not terminated until you were apprehended and confined by civil authorities on a charge of robbery. As a result of this action, on 27 January 1972, you were convicted by civil authorities of robbery and sentenced to confinement for two to five years.


Subsequently, while in the custody of civil authorities, you were processed for an administrative separation action by reason of misconduct. After waiving your procedural right to consult with legal counsel and to present your case to an administrative

discharge board, the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 14 March 1973, 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 assertion that you believe your discharge was too harsh. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an administrative discharge board. 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