



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

RDZ:ecb  
Docket No. 07213-09  
9 December 2009

[REDACTED]

[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 8 December 2009. 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.

You enlisted in the Marine Corps on 5 June 1997 for a term of four years. On 8 July 1998 you were counseled and warned about your repeated deficiencies in performance and conduct. Unfortunately you failed to correct your behavior. Specifically, between August 1988 and May 1999 you received one nonjudicial punishment and two summary court-martial convictions. Your offenses were failure to be at your appointed place of duty, two periods of unauthorized absence and failure to obey a commissioned officer's lawful order. When you were informed that you were being recommended for an other than


honorable discharge (OTH) due to your disciplinary record you waived your right to appear before an administrative discharge board where you would be represented by a military attorney and you could have requested retention or a better discharge. Instead you chose to accept an OTH and you were so discharged on 29 September 2009.

The Board concluded that in view of your frequent military offenses as well as your willingness to accept an OTH rather than try to serve out your enlistment your discharge was proper as issued and should not be changed now as a matter of clemency. With respect to your reenlistment code Marine Corps regulations require the assignment of RE-4 when a Marine is discharged for misconduct as you were. Therefore the Board concurred with the comments and recommendations set forth in the attached advisory opinion from Headquarters Marine Corps.

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

Enclosure