



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

BJG
Docket No: 731-10
1 October 2010



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 30 September 2010. 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 entered active duty in the Marine Corps on 6 April 1983. You were convicted by civil authorities for attempting to acquire a controlled substance (oxycodone) by fraud and sentenced to one year in prison. As a result of this conviction, you had 236 days of lost time. You were notified that your commanding officer was recommending you for an other than honorable (OTH) discharge due to misconduct (civil conviction). You waived all of your procedural rights, including your right to an administrative

discharge board (ADB). On 22 March 1985, you received the OTH discharge due to misconduct (civil conviction) and were assigned an RE-4 (not recommended for retention) reenlistment code.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your service record promotion to corporal (pay grade E-4). Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board noted that you waived your right to an ADB, your best opportunity for retention or a better characterization of service. In view of the above, 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