



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

TJR
Docket No: 1422-10
26 October 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 20 October 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 21 October 1976 at age 18 and began a period of active duty on 10 January 1977. You served without disciplinary incident until 4 August 1977, when you received nonjudicial punishment (NJP) for two periods of failure to go to your appointed place of duty and dereliction of duty.

During the period from 11 January to 21 November 1978 you received NJP on seven more occasions. Your offenses were wrongfully drinking beer in the barracks, disorderly conduct, breaking restriction, three specifications of disrespect, destruction of government property, disobedience, communicating a threat, two specifications of using provoking speech, and a four day period unauthorized absence.

On 31 July 1980 you were convicted by general court-martial (GCM) of damaging government property valued at \$1,109.98. You were sentenced to confinement at hard labor for five years, forfeiture of all pay and allowances, and a dishonorable discharge (DD). On

6 November 1980 the DD was mitigated to a bad conduct discharge (BCD) and the confinement was reduced to three years. The BCD was subsequently approved at all levels of review and on 18 October 1984 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, post service conduct, and desire to upgrade your discharge so that you may obtain medical benefits. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in eight NJPs and a GCM in such a short timeframe. 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