



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

REC
Docket No: 06590-10
11 March 2011

[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 March 2011. 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 and began active duty on 30 April 1982. On 25 January 1983, you received nonjudicial punishment (NJP) for wrongfully making a false statement, disobeying a lawful order, and being disrespectful toward a noncommissioned officer. On 23 September 1983, you received NJP for being disrespectful toward a noncommissioned officer, and disobeying a lawful order. On 11 July 1984, you were convicted by a special court-martial (SPCM) of two incidents of disobeying a lawful order, being disrespectful toward a noncommissioned officer on two occasions, being derelict in the performance of your duties, wrongfully using provoking words, wrongfully communicating a threat to a fellow Marine, and assaulting two fellow Marines. You were sentenced to forfeitures of \$1,788, reduction in pay grade, and confinement at hard labor for 135 days. On 5 October 1984, administrative separation action was initiated by reason of misconduct. You elected to have your case heard by an administrative discharge board (ADB), which found that you had committed misconduct, and recommended an other than honorable (OTH) characterization of service. Your commanding officer concurred with the ADB's finding and recommended that you

be discharged under OTH conditions by reason of misconduct. On 7 December 1984, the discharge authority directed an OTH discharge by reason of misconduct. On 18 December 1984, you were discharged and received an OTH characterization of service by reason of misconduct. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, conduct, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the characterization of your discharge, given your record of two NJP's, and one conviction by SPCM of misconduct. You are advised that an RE-4 reenlistment code is required when an individual is discharged for misconduct and is not recommended for retention. 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