



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

TAL
Docket No: 7689-10
30 August 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 25 August 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.


You reenlisted in the Marine Corps on 21 December 2002, after about 12 years of honorable service. On 17 July 2006, you were convicted by summary court-martial (SCM) of drunken operation of a vehicle and self injury. The sentence imposed was reduction in paygrade to E-6, forfeiture of pay and restriction for two months. The restriction portion of the sentence was suspended for a 12 month period. On 23 October 2009, your SCM was reviewed in accordance with Article 69(b) of Uniformed Code of Military Justice and no part of the findings or sentence was found to be unsupported in law, and reassessment of the sentence was determined not to be appropriate.

The Board, in its review of your application, carefully weighed all potentially mitigating factors such as your overall record and over 12 years of active service. Nevertheless, the Board concluded these factors were not sufficient to warrant modifying the sentence imposed at your SCM. The Board has no authority to consider contentions pertaining to improprieties in court-martial and must limit its review to determining whether the sentence

should be modified as a matter of clemency. 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