



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

SJN
Docket No: 01329-12
5 December 2012

[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 4 December 2012. 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 Reserve and began a period of active duty for training on 16 August 1974. The Board found that you were honorably released on 12 February 1975 and transferred back to your reserve unit with an obligation of 24 July 1980. On 19 May 1976, you were informed of your continued absences from regularly scheduled drills and directed to contact your reserve unit. On 1 June 1976, you were counseled concerning your unsatisfactory participation. At that time, you were informed that you were being processed for assignment to involuntary active duty and that if disapproved, that administrative discharge action could occur. On 24 July 1980, you were convicted by civil authorities of several counts of murder and appealing your death sentence. You received a general discharge on that same day because of the appeals that were taking place since your conviction.

Characterization of service is based in part on conduct marks assigned on a periodic basis. Your conduct average was 1.5. At the time of your service, a conduct average of 4.0 was required for a fully honorable characterization of service.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, record of service, the reason for your discharge, and desire to upgrade your characterization of service. Nevertheless, the Board concluded these factors were not sufficient to warrant a change in your characterization of service given the fact that you were warned of the consequence of failing to attend regularly scheduled drills, involvement with civil authorities, and failure to attain the required average in conduct. The Board believed you were fortunate to receive a general characterization of service considering the very serious nature of your civil conviction. 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