



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 8566-98

30 April 1999



Dear [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 28 April 1999. 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 enlisted in the Marine Corps on 4 December 1979 for four years as a CPL (E-4). At the time of your enlistment, you had completed nearly four years of service in the Marine Corps Reserve.

The record reflects that you served for only six months without incident. During the 20 month period from June 1980 to February 1982 you received three nonjudicial punishments (NJP) and were convicted by two summary courts-martial. Your offenses consisted of four brief periods of unauthorized absence (UA) totalling about three days, six instances of failure to go to your appointed place of duty, consuming alcoholic beverages while in a duty status, dereliction in the performance of your duties, and driving while intoxicated. As a result of these disciplinary actions, you were reduced in rank to PVT (E-1). During the foregoing period, you also had a 3 day period of UA from 8-11 May 1981 for which no disciplinary action was taken. You were also counseled on three occasions regarding your UAs and absences from appointed place duty.

On 2 March 1982 you were notified that you were being recommended for discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You were advised of your procedural rights and elected to present your case to an administrative discharge board (ADB).

You appeared before an ADB with counsel on 26 March 1982. The ADB found you had committed misconduct by reason of frequent involvement with military authorities and recommended your separation under other than honorable conditions by reason of misconduct. The staff judge advocate reviewed the proceedings and found them to be sufficient in law and fact. The discharge authority then directed your discharge under other than honorable conditions by reason of misconduct. You were so discharged on 18 May 1982.

In its review of your application the Board conducted a careful search of your service record for any mitigating factors which might warrant recharacterization of your discharge. However, no justification for such a change could be found. The Board noted at the time of your enlistment you were a 24 year old high school graduate with above average intelligence who had completed nearly four years of service in the Marine Corps Reserve. It appeared to the Board you possessed the necessary skills to successfully complete your enlistment. The Board noted your contention that you were discharged because of your involvement with alcohol. The Board concluded this contention was insufficient to warrant recharacterization of your discharge given your record of three NJPs and two summary courts-martial for 13 separate offenses. While alcohol abuse may be considered a mitigating factor, it does not excuse misconduct. Your administrative separation was accomplished in compliance with applicable regulations and there is no indication of procedural errors which would have jeopardized your rights. The Board concluded that you were guilty of too much misconduct to warrant recharacterization of your discharge to honorable or under honorable conditions. The Board thus concluded the discharge was proper and no change is warranted. 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