



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

TJR
Docket No: 2428-99
2 September 1999

[REDACTED]

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 31 August 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps Reserve on 15 October 1981 at the age of 19. Your record reflects that on 28 October 1981, while still in recruit training, you received nonjudicial punishment (NJP) for two incidents of failure to obey a lawful order. The punishment imposed was forfeitures totalling \$116.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to shirking your military duties. At this time you waived your rights to consult with legal counsel and to submit a statement in rebuttal to the separation. On 10 November 1981 the discharge authority directed you be issued a general discharge by reason of misconduct, and on 12 November 1981 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 and immaturity, good post service conduct, supporting documents, and your contention that you would like your discharge upgraded. The Board further considered your contention that this

one incident, which occurred over 17 years ago, should not continue to affect your life. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the NJP and your poor performance in recruit training. Further, no discharge is upgraded merely because of the passage of time. Given all the circumstances of your case, the Board concluded your 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