



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

TJR  
Docket No: 5155-01  
22 January 2002

[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 15 January 2002. 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 on 17 March 1977 at the age of 18. Your record reflects that you served a year without disciplinary incident but on 6 April 1978 you received nonjudicial punishment (NJP) for a day of unauthorized absence (UA) and were awarded a \$255 forfeiture of pay and correctional custody for 30 days, which was suspended for three months.

On 4 December 1978 you were convicted by civil authorities of robbery and sentenced to confinement for 2-1/2 to 3-1/2 years. On 13 December 1978, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. On 14 December 1978 your commanding officer recommended an undesirable discharge by reason of misconduct due to civil convictions. Subsequently, the discharge authority directed an other than honorable discharge, and on 21 August 1980 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 and post service conduct. The Board further considered your contention that your discharge is unjust because you have paid for the misconduct which occurred while you were in the service. However, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge was proper as issued 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