



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 2752-98

31 August 1999

[REDACTED]

Dear [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 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 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 30 September 1978 for three years at age 17. There is no DD Form 214 in the record for this period of service. However, you were honorably discharged on 7 May 1981 for the purpose of immediate reenlistment.

On 8 May 1981 you reenlisted in the Marine Corps for a period of four years. The record shows that you received nonjudicial punishment on four occasions. Your offenses were two periods of unauthorized absence totaling about eight days, two absences from your appointed place of duty and disobedience. A special court-martial convened on 17 September 1982 and convicted you of assaulting a staff sergeant, communicating a threat, and two periods of unauthorized absent totaling about one day. The court sentenced you to reduction to pay grade E-1, forfeiture of \$325 pay per month for three months and a bad conduct discharge. The bad conduct discharge was issued on 24 May 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable

service and your desire for veterans benefits. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct and especially the seriousness of the charges of which you were convicted by the special court-martial. The Board concluded that the bad conduct discharge was proper as issued and no change is warranted.

The Board believes that you are eligible for veterans benefits based on your honorable service from 30 September 1978 to 7 May 1981. However, the decision to grant benefits is solely a matter within the discretion of the Department of Veterans Affairs. 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