



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

TJR  
Docket No: 5727-00  
26 February 2001

[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 13 February 2001. 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 12 July 1972 at the age of 19. Your record reflects that on 30 April 1973 you received nonjudicial punishment (NJP) for a two day period of unauthorized absence (UA) and were awarded a \$50 forfeiture of pay, which was suspended.

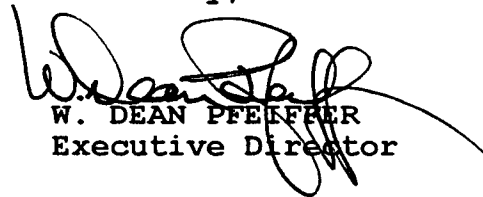
Your record further reflects that on 4 June 1976 you were convicted by special court-martial (SPCM) of a 205 day period of UA and disobedience. You were sentenced to confinement at hard labor for six months, a \$1,050 forfeiture of pay, and reduction to paygrade E-1. Approximately seven months later, on 28 February 1977, you were convicted by SPCM of a three day period of UA and possession and transfer of marijuana. You were sentenced to reduction to paygrade E-1, a \$600 forfeiture of pay, confinement at hard labor for 75 days, and a bad conduct discharge (BCD). On 4 January 1978 you submitted a written request for restoration to duty. However, on 23 March 1978, this request was denied. Subsequently, the BCD was approved at all levels review, and on 25 May 1978 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 your contentions that you were wrongfully convicted by court-martial on the charges of drug possession, and that you are suffering with a service-connected medical problem, specifically, problems with your feet. However, the Board concluded these factors and contentions were not sufficient to warrant recharacterization of your discharge given the seriousness of your drug related misconduct and lengthy period of UA. The Board noted that there is no evidence-in your record, and you submitted none, to support your contentions of a wrongful conviction or a service-connected medical problem. Further, the Board has no authority to consider contentions of error in a court-martial, and must restrict its review to clemency action on the sentence. Accordingly, the Board concluded that 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