



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

TJR
Docket No: 9384-02
14 August 2003



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 12 August 2003. 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.

You enlisted in the Marine Corps on 9 August 1979 at age 17. You served nearly a year without disciplinary incident, but on 9 July 1980, you received nonjudicial punishment (NJP) for possession of marijuana. The punishment imposed was a \$400 forfeiture of pay, restriction and extra duty for 30 days, and a reduction to paygrade E-1, which was suspended for six months.

On 17 March 1981 you were convicted by special court-martial (SPCM) of absence from your appointed place of duty, forgery, and theft. You were sentenced to confinement at hard labor for 30 days, reduction to paygrade E-1, a \$334 forfeiture of pay, and a bad conduct discharge (BCD). On 24 April 1981 the convening authority dismissed the charge of absence from your appointed place of duty, but otherwise approved the findings and sentence.

You received NJP on 22 February 1992 for a 17 period of unauthorized absence (UA) and were awarded restriction and extra duty for 45 days and a \$550 forfeiture of pay.

Your records contains a memorandum which notes that you were in a UA status from 22 February to 26 October 1982, a total of 246 days. However, the record does not reflect that any disciplinary action was taken for this period of UA. On 29 October 1982 your commanding officer recommended you be separated with the adjudged BCD. This recommendation stated, in part, as follows:

Return of deserter.... (Member) tried, convicted, and awarded a BCD by SPCM on 17 March 1981, which is currently under appeal.... request transfer of Member pending BCD, and further disciplinary action resulting from the deserter status.

On 6 December 1982 you were convicted by SPCM of a three day period of UA and sentenced to a \$1,528 forfeiture of pay and confinement at hard labor for four months, a portion of which was suspended for six months.

In January 1983 you submitted a written request for immediate execution of the BCD, which stated, in part, as follows:

I don't wish to stay in the military because I'm not able to cope with military life. I tried, but it's just not me.

During the period from 28 January 1983 to 6 July 1984, while you were on appellate leave, the BCD was approved at all levels of review, and on 6 July 1984 you were so discharged.

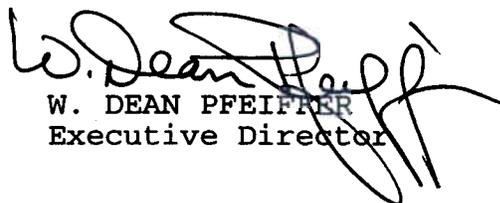
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded so that you could obtain employment. Nevertheless, the Board concluded these factors and your contention were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, and the very lengthy period of UA for which no disciplinary action was taken. 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