



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

FC
Docket No: 00780-03
24 July 2003



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 16 July 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, and applicable statutes, regulations and policies. The Board was unable to obtain your official record, and conducted its review based on the copies of the record that you submitted.

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 15 June 1967, after four years of active service in the Navy. During the period 7 December 1968 through 3 December 1969, you received three nonjudicial punishments (NJPs) for a nine-day period of unauthorized absence, wearing an improper uniform, wrongful possession of an identification card with the intent to deceive, wrongful possession of a liberty card, and drunk and disorderly conduct.

On 23 March 1970 you were convicted in civil court of drug possession, and sentenced to 53 days of confinement that had already been served. On 5 June 1970 the commanding officer recommended an undesirable discharge by reason of unfitness due to the civil conviction. However, the immediate superior in the

chain of command (ISIC) returned the request for further documentation. On 24 July 1970 you were convicted by summary court martial (SCM) of a 49-day period of unauthorized absence and sentenced to one month of confinement at hard labor and a reduction in paygrade to E-1. On 31 August 1970 the commanding officer again recommended an undesirable discharge by reason of unfitness due to civil conviction. On 14 September 1970 the staff judge advocate returned the request for discharge for further documentation of your civil conviction.

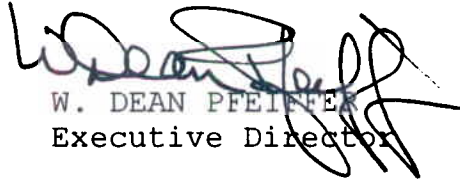
On 6 November 1970 you were again notified of administrative separation processing at which time you elected to retain all your rights. On 1 December 1970 your commanding officer recommended an undesirable discharge by reason of unfitness due to civil conviction. On 16 December 1970, an administrative discharge board (ADB) recommended a general discharge by reason of unfitness due to the civil conviction. On 30 December 1970 the staff judge advocate determined that the case was sufficient in law and fact. On 11 January 1971 the separation authority directed a general discharge and on 15 January 1970 you were so discharged.

In its review of your case, the Board carefully weighed all potentially mitigating factors such as your prior honorable service, combat service in Vietnam, and the length of time that has passed since you were discharged from the Marine Corps. The Board specifically noted that you were awarded the Purple Heart and Combat Action Ribbon for your service in Vietnam. However, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given your misconduct that resulted in three NJPs, a SCM conviction for a lengthy period of unauthorized absence, and the civil conviction for drug possession. 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