



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

FC
Docket No: 3695-03
27 October 2003

[REDACTED]

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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 22 October 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 20 February 1956 at age 17. You then served without incident until 8 July 1957, when you received nonjudicial punishment (NJP) for carrying a concealed knife and were awarded a reduction to paygrade E-1. A service record entry of 3 April 1958 indicates that administrative separation processing for unfitness due to repeated venereal infection was suspended because of your rotation back to the United States. During the period 2 February to 1 June 1959 you received three more NJPs for disrespect, failure to obey a lawful order, and a brief period of unauthorized absence (UA).

On 17 June 1959 you were informed of administrative separation processing by reason of misconduct due to frequent involvement of

a discreditable nature with civil or military authorities, and you elected to retain all of your procedural rights. On 22 June 1959 the commanding officer recommended an undesirable discharge. On 30 June 1959 an administrative discharge board (ADB) recommended that you be retained in the Marine Corps. In July 1959, the separation authority approved the findings of the ADB and you were retained in the Marine Corps.

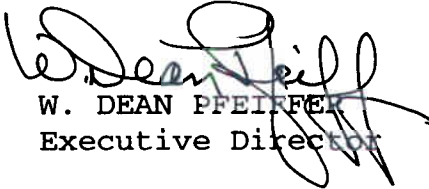
On 19 April 1960 you were convicted in civil court of first degree robbery and sentenced to five years in prison. When you were informed that administrative separation action had been initiated due to the civil conviction, you again elected to retain all of your procedural rights. On 20 May 1960 the commanding officer recommended an undesirable discharge by reason of misconduct due to the conviction. On 20 June 1960 an ADB found misconduct due to civil conviction, and recommended an undesirable discharge. Subsequently, the separation authority approved the ADB's findings and recommendation. On 22 July 1960 you received an undesirable discharge.

In its review of your case, the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, the time that has passed since you were discharged from the Marine Corps, and your good post service adjustment. However, the Board found that these factors were not sufficient to warrant recharacterization of your discharge because of the serious nature of your misconduct that resulted in a civil conviction for first-degree robbery as well as the prior misconduct that resulted in four NJPs. Furthermore, the Board noted that you were given an opportunity to earn a better characterization of service when you were retained in the Marine Corps after the first ADB. However, you failed to take advantage of this opportunity and subsequently committed the offense of first degree robbery. 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