



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

CRS
Docket No: 5838-06
22 November 2006

[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 15 November 2006. 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 for four years in the Marine Corps on 6 August 1969. The record reflects that you received nonjudicial punishment and were convicted by a summary court-martial and a special court-martial. The offenses included unauthorized absences totaling five days, assault on three occasions, disrespect, and breaking restriction on six occasions. On 29 July 1971 you were convicted by civil authorities of trespassing. The court sentenced you to a two year period of informal probation. Subsequently, you received a second nonjudicial punishment and were convicted by a second summary court-martial and a second special court-martial. The offenses included attempted theft from a Marine, theft of \$130 from a Marine, disrespect, communicating a threat to kill, assault, breaking restriction, absence from your appointed place of duty, and failure to obey a lawful order.

On 20 October 1973 you were convicted by civil authorities of burglary of a post office on 20 July 1973 at Camp Pendleton. The court sentenced you to confinement for six months, a fine of \$388, and probation for three years. On 23 October 1973 the

record shows that you were in the hands of civil authorities. It appears that you were released from civil confinement on 22 September 1974, and immediately became an unauthorized absentee. You were declared a deserter on 26 July 1974. On 12 September 1974 your medical records were closed out due to your being a deserter.

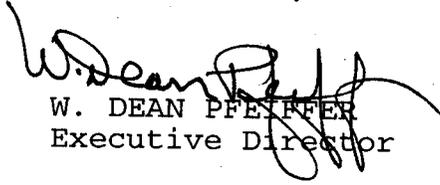
On 13 February 1976 an administrative discharge board recommended that you be separated with an undesirable discharge by reason of misconduct due to civil conviction. After review by the discharge authority, the recommendation for separation was approved and you were discharged on 12 May 1976 with an undesirable discharge.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your contention that you were held beyond your enlistment and that you were not in the hands of civil authorities from 1973 to 1976. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, due to the seriousness of the civil conviction for burglary and your six military disciplinary actions. It is clear that your enlistment would have ended on 5 August 1973. However, your burglary of a post office in July 1973 and subsequent incarceration meant that your enlistment was extended to cover the time lost. Accordingly, you were not held beyond the expiration of your enlistment. Additionally, your request to remove the two desertion entries of 12 September 1974 was also denied since you were in a desertion status at that time. Finally, even if you were not in the hands of civil authorities during the entire period from 1973 to 1975, you were either in the hands of civil authorities or in a deserter status. 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