



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

SMW
Docket No: 10044-06
5 April 2007



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 4 April 2007. 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.

On 5 November 1964 you enlisted in the Marine Corps at age 17 with parental consent. You then served without incident for about a year. However, on 10 November 1965 you received nonjudicial punishment (NJP) for a brief period of unauthorized absence (UA). On 16 December 1965 you began a period of UA and were apprehended by civil authorities on 27 December 1965 on charges of reckless driving, drunk driving, driving without a license, and operating a vehicle without the owner's permission. You were subsequently convicted by civil courts on 28 January and 1 March 1966 of reckless driving, drunken driving, and operating a vehicle without the owner's permission. The sentences included a fine, suspended confinement and three years of probation. On 2 March 1966, about 76 days later, the UA ended after you were returned to your command. Apparently, no disciplinary action was taken for the 76-day period of UA.

During the period from 15 October 1966 to 27 August 1967, while at a staging battalion, you were in a UA and desertion status on nine occasions totaling about 100 days. On 24 January 1968 you were convicted by general court-martial (GCM) of two instances of

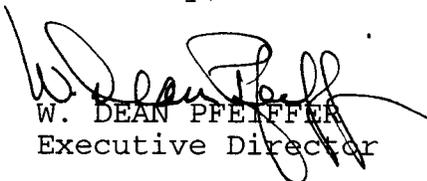
UA totaling about two days, four instances of desertion totaling about 79 days, two instances of failure to obey a lawful order, two instances of escape from lawful confinement, and breaking restriction. The court sentenced you to confinement at hard labor (CHL), forfeitures of all pay and allowances, and a dishonorable discharge (DD). Your request for clemency and restoration to duty was subsequently denied. During review, the CHL was reduced and the DD was mitigated to a bad conduct discharge (BCD). On 17 April 1969 you waived the right to request restoration to duty and requested execution of the BCD. On 3 July 1969 you were so discharged.

The Board, in its review of your entire record, carefully considered all mitigating factors, such as your youth. The Board also considered your contentions that you should receive amnesty because you did not want to fight in the Vietnam conflict, and were a sole surviving son. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your repetitive misconduct. Regarding your contentions, amnesty is not applicable in your case, and even though you were a sole surviving son, you voluntarily enlisted at the age of 17 with parental consent. 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