



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

SMW
Docket No: 10053-06
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 28 May 1985 you enlisted in the Marine Corps at age 19 and served without incident for more than a year. On 9 and 14 September 1986 you received nonjudicial punishment (NJP) for a day of unauthorized absence (UA), two orders violations, willful disposal of your uniforms and possession of hashish and drug paraphernalia.

On 17 September 1986 your security clearance was revoked for cause and you were subsequently issued permanent change of station orders to report no later than 13 December 1986. However, you failed to report on that date and began a UA that ended on 22 January 1987, a period of about 40 days. On 5 February 1987 you requested an other than honorable discharge for the good of the service to avoid trial by court-martial for the 40-day UA. At that time, you consulted with counsel and acknowledged the consequences of receiving such a discharge. On 20 February 1987 the separation authority approved your request and on 27 February 1987 you were separated with an other than honorable discharge for the good of the service to avoid trial by court-martial. As a result of this action, you

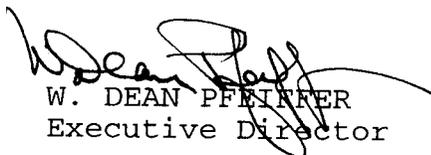
were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all mitigating factors, such as your youth, post-service conduct and desire for a better discharge. Nevertheless, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct, which included drug-related offenses and a lengthy period of UA. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Finally, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. 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