



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

CRS
Docket No: 1645-07
5 May 2008

[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 16 April 2008. 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.

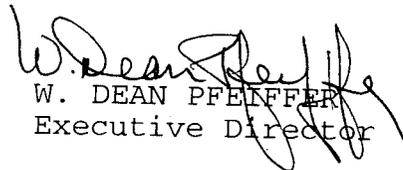
The Board found that you enlisted in the Marine Corps on 6 January 1982. You received nonjudicial punishment on 29 July 1982 for an unauthorized absence of five days. On 3 March 1985 you requested discharge for the good of the service in lieu of trial by court-martial for unknown offenses. The Board presumed, however, that your request was based on your two periods of unauthorized absence of a total duration of 365 days, the second of which was terminated on 25 February 1985. Your request for discharge was approved, and you were separated from the Marine Corps with a discharge under other than honorable conditions on 28 March 1985.

The Board carefully weighed all potentially mitigating factors in your case, such as your service as a member of the Beirut peace keeping force, grief over the loss of some your fellow Marines in a combat zone, and belief that your discharge would be automatically upgraded six months after you were discharged. The Board concluded that those factors were insufficient to warrant recharacterization of your service, given the serious nature of your misconduct and your request for discharge in lieu of trial by court-martial. The Board believes that considerable clemency was extended to you when your request for discharge was granted,

as you avoided the real possibility of confinement at hard labor and a punitive discharge. In addition, it found that there is no law or regulation which provides for the automatic upgrading of discharges. 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