



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

TJR  
Docket No: 2892-07  
24 January 2008

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 23 January 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 15 January 1954 at age 19 and served without disciplinary incident until 8 August 1956, when you began a period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities and held in confinement. As a result, on 8 October 1956, you were convicted by civil authorities of four specifications of first degree robbery while armed with a dangerous weapon. On 1 November 1956 you were sentenced to confinement for 10 years. However, your sentence was reduced to confinement for one year and probation for nine years.

Subsequently, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). However, on 23 November 1956 an ADB recommended an undesirable discharge by reason of

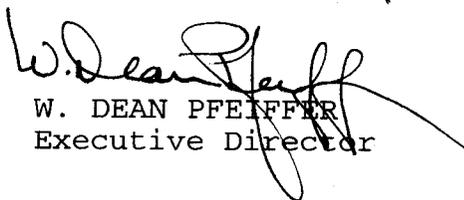
misconduct due to civil conviction. Your commanding officer also recommended an undesirable discharge by reason of misconduct. On 11 December 1956 the discharge authority approved these recommendations and directed an undesirable discharge, and on 4 January 1957, while in the custody of civil authorities, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, character reference letters, period of honorable service, and the passage of time. It also considered your desire to upgrade your discharge so that you may be buried as a Marine. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct, which resulted in conviction by civil authorities. Finally, no discharge is automatically upgraded due solely to the passage of time or an individual's good post service conduct. 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