



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

SMW  
Docket No: 6094-07  
25 February 2008

[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 21 February 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.

On 23 July 1990, you enlisted in the Marine Corps at age 17 with parental consent. On 10 September 1993, you had nonjudicial punishment (NJP) for willful disobedience of a lawful order. On 16 September 1993, you were counseled regarding deficiencies in your performance and conduct and warned that further infractions could result in disciplinary action or administrative separation. On 24 November 1993, you had NJP for larceny of a cassette tape from the exchange.

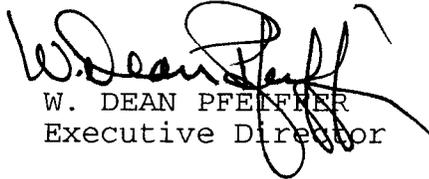
On 13 December 1993, your commanding officer initiated administrative separation by reason of misconduct due to a pattern of misconduct. In connection with this processing you acknowledged that separation could result in an other than honorable (OTH) discharge and elected the right to have your case heard by an administrative discharge board (ADB). On 6 January 1994, you were counseled regarding deficiencies in your performance and conduct, and your commanding officer recommended an OTH discharge. On 7 January 1994; you had NJP for two instances of breaking restriction. On 22 February 1994,

suspended punishment from the NJP on 7 January 1994, was vacated. On 28 February 1994, you submitted an unconditional waiver of rights that you previously elected, specifically, you waived the right to have your case heard by an ADB. On 3 March 1994, you were convicted by a summary court-martial of willful disobedience of a lawful order, making a false official statement and wrongful solicitation of another to aid in the offense of malingering. On 15 April 1994, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to a pattern of misconduct. On 25 April 1994, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, desire for a better discharge, and regret for your mistakes. ~~Nevertheless, the Board concluded that these factors were not~~ sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Finally, the Board noted that although you first elected the right to have your case heard by an ADB, you later waived that right, which was your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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