



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

TJR
Docket No: 8151-07
9 October 2008

[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 8 October 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 23 March 1978 at age 17 and served without disciplinary incident until 18 December 1978, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty. The punishment imposed was restriction and extra duty for 14 days and a \$100 forfeiture of pay. During the period from 16 April to 16 November 1979 you received NJP on five more occasions for failure to obey a lawful order, assault, disobedience, absence from your appointed place of duty, disorderly conduct, and sleeping on post.

On 13 February 1980 you were notified of pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel you waived your right to present your case to an administrative discharge board (ADB). On 25 February 1980 your commanding officer recommended an other than honorable discharge by reason of misconduct due to frequent

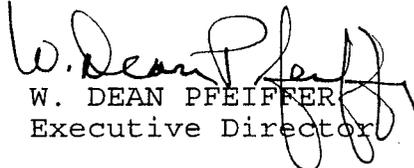
involvement of a discreditable nature with military authorities. On 6 March 1980 the discharge authority approved this recommendation and directed discharge under other than honorable conditions, and on 27 March 1980 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and the passage of time. It also considered your assertions of a physical altercations with and intimidation by your superiors. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in six NJPs. Further, you were given an opportunity to defend yourself, but waived your procedural rights to present your case to an ADB. Finally, there is no evidence in the record, and you provided none, to support your assertions. 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