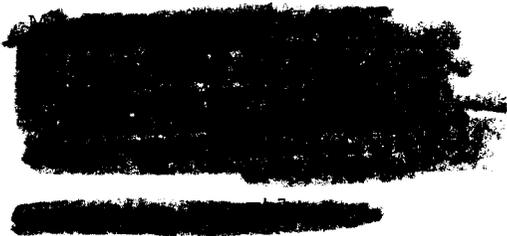




DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 8765-07  
6 November 2008



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 5 November 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 31 July 1974 at age 17 and served without disciplinary infraction until 15 March 1975, when you began a period of unauthorized absence (UA) that was not terminated until you were apprehended by civil authorities on 18 October 1975. On 27 October 1975 you were convicted by civil authorities of obtaining controlled substances by false or fraudulent prescriptions and sentenced to confinement for 365 days.

On 5 January 1976, while in the custody of civil authorities, you were notified of pending administrative separation by reason of misconduct due to civil conviction. At that time you waived your right to consult with legal counsel and to submit a statement of rebuttal to the discharge, but requested your case be presented to an administrative discharge board (ADB). As a result, on 24

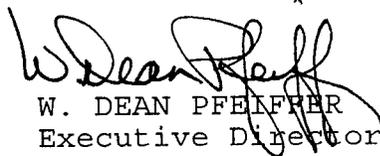
March 1976, an ADB recommended separation under other than honorable conditions by reason of misconduct due to civil conviction. Your commanding officer also recommended discharge under other than honorable conditions. On 5 April 1976 the discharge authority approved these recommendations, and on 26 May 1976 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 desire to upgrade your discharge. It also considered your assertion that your discharge was due to extenuating circumstances. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your drug related misconduct in the civilian community and lengthy period of UA from the Marine Corps. 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 PFENNER  
Executive Director