



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

TRG
Docket No: 9442-07
9 July 2008

[REDACTED]

[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 1 July 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.

You enlisted in the Marine Corps on 21 January 1960 at age 17. On 16 January 1960 you were apprehended by civil authorities on suspicion of robbery. Approximately 12 days later, you were released by the civil authorities and returned to your unit. On 4 November 1960 you were convicted by civil authorities of robbery in accordance with your plea of guilty. You were sentenced to serve one year in the county jail which was suspended for three years.

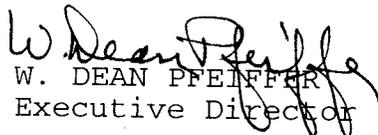
On 2 December 1960 you received nonjudicial punishment (NJP) for the 12 days of authorized absence while you were held by civil authorities. Subsequently, you received another NJP for breaking restriction. On 28 December 1960 you were notified of separation processing by reason of misconduct. On 23 January 1961, you were examined by a medical officer who concluded that you knew right from wrong, there was no evidence of psychosis and you were able to defend yourself against any action which could be taken against you. On 26 January 1961 you appeared before an administrative discharge board which considered the facts of your case and recommended an undesirable discharge by reason of misconduct. After review, the separation authority directed an undesirable discharge and you were so discharged on 6 February 1961.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and your contention, in effect, that you were mentally ill at the time of your service in the Marine Corps and have been mentally ill since then. The Board found that these factors and contention were not sufficient to warrant recharacterization of your discharge given your conviction by civil authorities of a serious offense. Apparently, you were not obviously mentally ill when convicted by the civil authorities. Further, prior to your discharge you were examined by a medical officer who found that you understood right from wrong and were responsible for your actions. In view of the foregoing, 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