



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

TJR  
Docket No: 171-08  
1 December 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 25 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 21 November 1975 at age 17 and served without disciplinary incident until 15 May 1977, when you received nonjudicial punishment (NJP) for disobedience and negligence by discharging a firearm. The punishment imposed was reduction to paygrade E-1 and extra duty for 30 days.

On 23 January 1978 you were convicted by special court-martial (SPCM) of a 168 day period of unauthorized absence (UA). You were sentenced to a \$200 forfeiture of pay, reduction to paygrade E-1, confinement at hard labor for two months, and a bad conduct discharge (BCD). Subsequently, the BCD was suspended for six months. On 5 October 1978 you were convicted by summary court-martial (SCM) of sleeping on post and being out of uniform. You were sentenced to a \$250 forfeiture of pay and confinement at hard labor for 30 days.

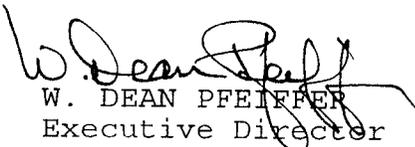
On 30 October 1978 you were notified of pending administrative discharge action by reason of misconduct due to frequent involvement of a discreditable nature with military or civilian authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement of a discreditable nature with military or civilian authorities. The discharge authority approved this recommendation and directed separation under honorable conditions by reason of misconduct and on 18 December 1978 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 have your discharge upgraded. It also considered your assertion that you were unjustly discharged as a result of a personal conflict with your superiors. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which resulted in NJP and two court-martial convictions, and included a lengthy period of UA. Finally, the Board also noted that you were awarded a BCD and given an opportunity to receive a better characterization of service when the BCD was suspended. However, your misconduct continued and you were given another opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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