



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

SMS  
Docket No: 605-08  
5 September 2008

[REDACTED]

Dear [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 3 September 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.

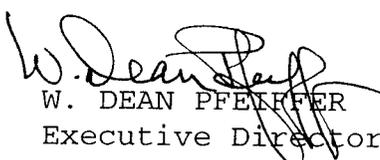
On 7 February 1969, you enlisted in the Marine Corps at age 17 with parental consent. On 3 October 1969, you began an unauthorized absence (UA) that ended on 12 November 1969, a period of about 40 days. On 24 November 1969, you had nonjudicial punishment for the 40 day period of UA. On 23 December 1969, you reported to Vietnam for duty as a wireman and radio operator. On 30 March 1970, a letter of continuity stated that your job performance was good and that although your conduct was not of the best nature, no official action had been taken. On 30 April 1970, another letter of continuity stated that you continued to do well in your duty performance, but lacked initiative and required supervision. On 20 May 1970, you received a psychiatric evaluation after being involved in a fight the previous night. The evaluation stated that you were impulsive, lacked control, had some sociopathic qualities, but was legally responsible for your actions. On 8 June 1970, you were convicted by a special

court-martial of wrongful appropriation of government property and assault. On 12 October 1970, you requested an undesirable discharge (UD) for the good of the service to avoid trial by court-martial for charges of unauthorized possession of a government .45 caliber weapon and assault with a knife by making a movement to cut another Marine. At that time, you consulted with counsel and acknowledged the consequences of receiving such a discharge. On 21 October 1970, the separation authority approved your request for a UD. On 30 October 1970, you departed Vietnam. On 5 November 1970, you were separated with a UD for the good of the service to avoid trial by court-martial. As a result of this action, you were spared the stigma of another court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor.

The Board, in its review of your entire record, carefully considered all potential mitigation, such as your youth and service in Vietnam. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, the Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. The Board also concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. 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