



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

TJR
Docket No: 690-08
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 2 April 1969 at age 17. You served without disciplinary incident until 24 August 1970, when you were convicted by special court-martial (SPCM) of failure to obey a lawful order, disorderly conduct, two specifications of disrespect, and a 40 day period of unauthorized absence (UA). You were sentenced to reduction to paygrade E-1, confinement at hard labor for three months, a \$186 forfeiture of pay, and a bad conduct discharge (BCD). The BCD was subsequently suspended for six months.

On 5 October 1970 after undergoing a psychiatric evaluation, you were diagnosed with a severe emotionally unstable personality disorder. On 23 December 1970 you received nonjudicial punishment (NJP) for wrongful possession of a false identification card and were awarded a \$50 forfeiture of pay, which was suspended for three months.

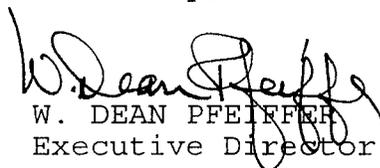
During the period from 27 January to 1 February 1971 you were in a UA status for five days. As a result, the suspended BCD was vacated. Subsequently, the BCD was approved at all levels of review, and on 12 March 1971, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, desire to upgrade your discharge, and your explanation regarding your discharge processing. It also considered your assertion that you should have been discharged due to a mental defect because a psychiatrist stated that you were emotionally unstable with a hostile personality. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. You were given an opportunity to earn a better characterization of service when the BCD was suspended for six months, but you failed to do so by continuing to commit offenses. Finally, applicable directives state that even if a Marine is processed for separation by reason of a diagnosed personality disorder, if the Marine meets the requirement of another reason for separation, such as misconduct, the Marine will be separated for the latter reason. 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