



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

TJR
Docket No: 917-08
10 December 2008

[REDACTED]

[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 9 December 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 7 January 1974 at age 18. About six months later, on 9 July 1974, you received nonjudicial punishment (NJP) for a 23 day period of unauthorized absence (UA). Shortly thereafter, on 8 October 1974, you received NJP for a 19 day period of UA.

On 19 March 1975 you were convicted by special court-martial (SPCM) of unauthorized purchases of alcoholic beverages. You were sentenced to a \$375 forfeiture of pay and confinement at hard labor for one month. On 6 June 1975 you began another period of UA that was not terminated until you were apprehended by Japanese civil authorities. As a result of this arrest, on 20 October 1975, you were convicted by civil authorities of possession and use of explosives to commit a crime and robbery. You were sentenced to confinement at forced labor for two years and six months.

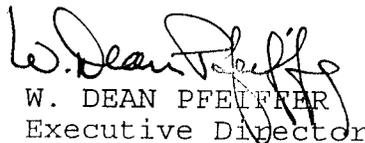
On 18 November 1975, while in the custody of civil authorities, you were notified of pending administrative separation by reason of misconduct due to the civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 5 December 1975 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to conviction by civil authorities. Subsequently, your commanding officer also recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. On 24 December 1975 the discharge authority approved these recommendations, and on 2 November 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 so that you may obtain veterans' benefits. It also considered your assertion that you were told that your discharge would be upgraded six months after your separation from the Marine Corps. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and foreign civilian communities, and the repeated and lengthy periods of UA from the Marine Corps. Further, there is no evidence in the record, and you submitted none, to support your assertion. Finally, no discharge is upgraded due solely to the passage of time. 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