



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

BAN
Docket No: 01918-08
24 November 2008

[REDACTED]

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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 20 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 1 October 1969, and served without disciplinary incident until 28 January 1971, when you received a nonjudicial punishment (NJP) for failure to obey a lawful order.

Shortly thereafter, you received the following NJP's: on 26 May 1971, for wrongful appropriation of a motorcycle, on 18 June 1971, for assault, on 21 July 1971, unauthorized absence (UA), and on 3 September 1971, for failure to go to your appointed place of duty and willful disobedience.

On 8 December 1971, through counsel, you requested an other than honorable (OTH) discharge for the good of the service, in lieu of a trial by court-martial. However, on 10 January 1972, your request was denied, and on 11 January 1972, you were convicted at

a special court-martial (SPCM) for UA, missing ship's movement, willfully damaging government property, and disrespect toward a commissioned officer. In addition, on 27 April 1972, you were convicted at another SPCM for striking a superior noncommissioned officer.

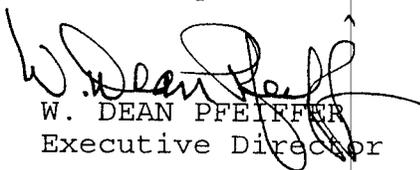
On 27 April 1972, you were recommended for administrative separation by reason of unfitness for military service, based on your frequent involvement of a discreditable nature with military authorities. You were afforded your right to consult with legal counsel. On 8 June 1972, the separation authority approved this request and directed an OTH discharge and an RE-4 reenlistment code, and on 15 June 1972, 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 your letters of recommendation. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. 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