



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

SMS
Docket No: 2642-08
20 November 2008



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 19 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 28 May 1970, you enlisted in the Marine Corps at age 20. On 24 February and 13 July 1971, you had nonjudicial punishment (NJP) for disrespect, willful disobedience of a lawful order, unlawful assembly of a riot, and a brief period of unauthorized absence. On 8 August 1971, a smoking pipe with marijuana residue was found in your wall locker during an inspection. You subsequently made a statement in which you admitted using marijuana and further stated that you primarily used marijuana off base.

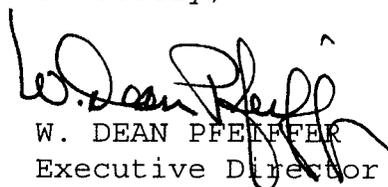
You were subsequently notified that you were being recommended for administrative separation by reason of unfitness which could result in an other than honorable discharge. You then signed a conditional waiver in which you waived the right to have your case heard by an administrative discharge board (ADB) if your commanding officer would recommend a general or

honorable discharge. On 7 September 1971, your commanding officer recommended a general discharge by reason of unfitness. In connection with this processing, you acknowledged the separation action. On 9 November 1971, the separation authority approved the discharge recommendation and directed a general discharge by reason of unfitness. On 24 November 1971, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contention that you were falsely accused of using drugs. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Regarding your contention, the record shows that you admitted using marijuana. Furthermore, the Board noted that you waived the right to have your case heard by an ADB when you signed a conditional waiver, which was your best opportunity for retention or a more favorable characterization of service. Therefore, the Board concluded that the discharge was proper as issued and no change is warranted. 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