



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

SMS
Docket No: 4341-08
5 February 2009

[REDACTED]

[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 4 February 2009. 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 3 December 1971, you enlisted in the Marine Corps at age 20. During the period 8 January to 7 November 1973, you had nonjudicial punishment (NJP) on nine occasions and suspended punishment was vacated on three occasions. Your offenses included seven instances of unauthorized absence totaling about five days, three instances of failure to go to your appointed place of duty, disrespect, three instances of failure to obey a lawful order, dereliction in the performance of your duties, wrongful appropriation of a .45 caliber magazine and rounds, and willful disposal of government property.

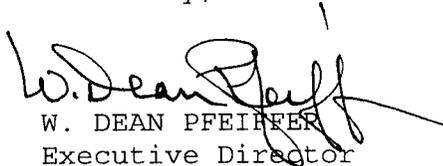
On 14 November 1973, your commanding officer initiated administrative separation by reason of unfitness due to frequent discreditable involvement. In connection with this processing, you acknowledged that separation could result in an undesirable discharge (UD) and elected to have your case heard by an administrative discharge board (ADB). On 3 December 1973, you were convicted by a summary court-martial of assault. On 24 January 1974, an ADB convened and found unfitness due to your frequent discreditable involvement, and recommended a UD. On 5 February 1974, the separation authority

approved the discharge recommendation and directed a UD by reason of unfitness due to frequent discreditable involvement. On 20 February 1974, 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 charged. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct, and there is no evidence to support your contention. 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