



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

SMS  
Docket No: 4507-08  
5 February 2009

[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 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.

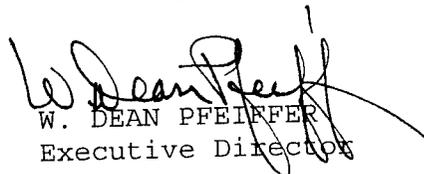
On 21 July 1978, you enlisted in the Marine Corps at age 18. On 24 January and 28 June 1979, you had nonjudicial punishment. Your offenses included a brief instance of unauthorized absence, three instances of absence from your appointed place of duty, and two instances of failure to go to your appointed place of duty. On 27 October 1979, you were granted a drug exemption and subsequently participated in a drug rehabilitation program. On 11 December 1980, you reported for duty in Okinawa, Japan. On 26 February 1981, you were convicted in Japanese civilian court of violation of the Narcotics Control Law and sentenced to 18 months of forced labor confinement.

Your commanding officer subsequently initiated administrative separation by reason of misconduct due to a civil conviction. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 7 April 1981, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to a civil conviction. After you were subsequently released from civil confinement, on 14 January 1982, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your drug-related misconduct that occurred in a foreign country after you were granted a drug exemption and participated in a drug rehabilitation program. Furthermore, your discharge by reason of misconduct due to a civil conviction met the requirements established by regulations. The Board also noted that you waived the right to have your case heard by an ADB, 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