



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

RDZ:ecb
Docket No. 04589-08
20 June 2008

[REDACTED]

[REDACTED]

[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 17 June 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.

You enlisted in the Marine Corps on 26 January 1967 at age 18. On 26 September 1967 you received nonjudicial punishment for 16 days of unauthorized absence (UA) for which you were reduced to private and ordered to forfeit \$45.00. Your reduction to private was suspended for six months. In February of 1968 you began a tour of duty in Vietnam that lasted approximately 18 months. Unfortunately after returning to the United States you began a period of UA during which you were arrested by civil authorities on a charge of burglary. On 25 September 1970 you were convicted of that charge and sentenced to four to six years

in the Colorado State Penitentiary. Your confinement was suspended and you were placed on five years of probation. You were then returned to Marine Corps control.

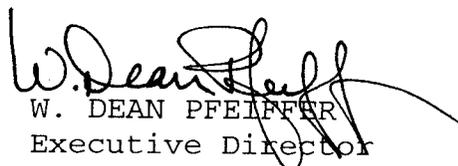
On 12 October 1970 you were notified that you were being processed for administrative separation with an undesirable discharge (UD) due to your civil conviction. After conferring with a military lawyer you waived all your rights. Consequently you were issued a UD on 4 December 1970.

In its your review of your application the Board took into account all extenuating and mitigating matters such as your youth, 18 months of Vietnam service and remorse for your misconduct. Nevertheless in view of the seriousness nature of your civil conviction the Board concluded that your discharge was properly issued and should not be changed now as a matter of clemency.

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