



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

SMS  
Docket No: 4935-08  
20 February 2009

[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 19 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 30 September 1982, you reenlisted in the Marine Corps at age 21 after a prior period of honorable service. On 14 November 1982, you were awarded the Good Conduct Medal. On 15 April and 23 May 1983, you had nonjudicial punishment (NJP) for two instances of use of marijuana, use of cocaine, and two instances of failure to go to your appointed place of duty. On 23 May 1983, suspended punishment was also vacated from the NJP that you had on 15 April 1983.

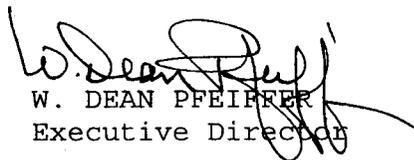
On 15 August 1983, your commanding officer initiated administrative separation by reason of misconduct due to drug abuse. In connection with this processing, you acknowledged that separation could result in an other than honorable (OTH) discharge and waived the right to have your case heard by an administrative discharge board (ADB). On 23 September 1983, the separation authority approved the discharge recommendation and directed an OTH discharge by reason of misconduct due to drug abuse. On 21 November 1983, you were convicted by a summary court-martial of two instances of disobedience of a lawful order and an additional offense that is currently not contained in the record. Your discharge was then held in abeyance pending completion of your sentence that resulted from your court-martial conviction. On 15 February 1984, you were separated with an OTH discharge by reason of misconduct due to drug abuse.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your period of honorable service, and desire for a better discharge. The Board also considered your contention that you had a drug problem and were discharged instead of receiving substance abuse treatment. 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, your discharge met the requirements established by regulations and there is no evidence in the record to show that you requested or were denied substance abuse treatment. 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.

The Board noted that as a result of your prior honorable service, you may be eligible for veterans' benefits. You should contact the nearest office of the Department of Veterans Affairs if you desire clarification about your eligibility for those benefits.

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