



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

SMS
Docket No: 6735-08
19 March 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 18 March 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.

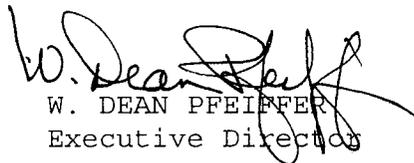
On 25 April 1975, you enlisted in the Marine Corps Reserve at age 19 and immediately began a period of active duty. On 27 August 1975, you were honorably released from active duty and then began serving in the Select Marine Corps Reserve. You subsequently accumulated 19 unauthorized absences from drill and annual training, refused offers to make up missed drills, and had one drill was declared as unsatisfactory because you failed to meet minimum grooming standards. On 22 February 1978, your commanding officer initiated administrative separation by reason of misconduct due to shirking. In connection with this processing you were notified of the separation action, that it could result in an other than honorable (OTH) discharge, and were advised that you had the right to have your case heard by an administrative discharge board (ADB). However, you failed to respond. On 3 March 1978, the staff judge advocate found that your case was sufficient in law and fact. On 9 March 1978, the separation authority approved the recommendation and directed an OTH discharge by reason of misconduct due to shirking. On 16 March 1978, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth, period of honorable service during your initial active duty for

training, and contentions that the reserves were not suited for your needs and you were denied enlistment in the regular Marine Corps after you returned to your reserve unit. Nevertheless, the Board concluded that these factors and contentions were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. The Board also noted that you waived the right to have your case heard by an ADB when you failed to respond to your discharge notification, 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