



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

SJN
Docket No: 06983-08
22 May 2009



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 May 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 the evidence submitted was insufficient to establish the existence of probable material error or injustice.

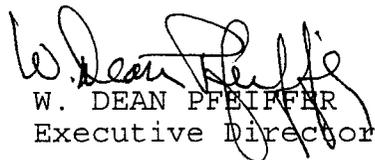
You reenlisted in the Marine Corps on 5 April 1984 after serving over six years of honorable service. On 6 August 1986, you were counseled and warned that further insubordinate behavior could result in administrative discharge action. On 26 October 1987, you were convicted by special court-martial (SPCM) of three days of unauthorized absences, disrespect, disrespectful language, escaping from custody, damaging government property, and communicating a threat. You were sentenced to a reduction in paygrade and confinement.

On 14 December 1987, you were notified of pending administrative separation action by reason of misconduct due commission of a serious offense. After being advised of your procedural rights, you waived the right to an administrative discharge board (ADB). On 16 December 1987, your commanding officer forwarded his recommendation for separation, and on 4 January 1988 the discharge authority directed that you be separated for misconduct with a general discharge.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, prior honorable service, and overall record of your last period of service. Nevertheless, the Board found that these factors were not sufficient to warrant any change in your discharge given your conviction by SPCM for very serious offenses. The Board also noted that you were fortunate to receive a general discharge since a discharge under other than honorable conditions is often directed when an individual is discharged due to misconduct. Further, you waived the right to an ADB, your best chance for retention or a better characterization of service. 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