



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

SMS
Docket No: 7357-08
13 April 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 8 April 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 March 1956, you enlisted in the Marine Corps at age 17 with parental consent. On 23 November 1957, you were convicted by a special court-martial of a 40 day period of unauthorized absence. Your sentence included forfeitures of pay, confinement at hard labor, reduction in rank, and a bad conduct discharge (BCD), but the BCD was later suspended for your period of confinement and six months thereafter. On 5 February 1959, you were convicted by a summary court-martial of wrongful appropriation of a government vehicle. On 20 February 1959, you were convicted in civilian court of three instances of forgery and sentenced to one year in jail.

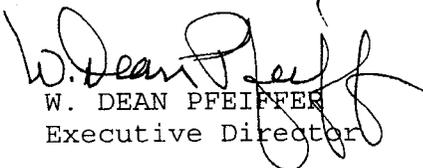
Based on the information currently contained in the record, it appears that on 24 February 1959, your commanding officer initiated administrative separation by reason of misconduct due to a civil conviction. In connection with this processing, you would have acknowledged that separation could result in an undesirable discharge (UD) and it appears that you elected to have your case heard by an administrative discharge board (ADB). On 13 March 1959, an ADB convened and found that you were guilty of misconduct due to a civil conviction and recommended a UD. On 16 March 1959, the separation

authority approved the recommendation and directed a UD by reason of misconduct due to a civil conviction. On 7 April 1959, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth and desire for a better discharge. The Board also considered the letters of character reference that you provided with your application, your belief that you were awarded a Good Conduct Medal (GCM), and contention that alcohol abuse contributed to your misconduct. Nevertheless, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge due to the seriousness of your misconduct. Furthermore, the record shows that you were not awarded a GCM. In order to receive a GCM, a service member must serve three years without a disciplinary action and if there is a disciplinary action, the GCM period commencement date is restarted. Finally, there is no evidence in the record to show that alcohol abuse contributed to your misconduct, but even if there were such evidence, that would not excuse it. 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