



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

JRE
Docket No. 11027-08
12 December 2008



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 4 December 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.

The Board found that you enlisted in the Marine Corps on 14 January 1974. You received nonjudicial punishment on 14 June 1974 for a disrespect offense. You underwent psychiatric evaluation on 22 July 1974. Upon completion of the evaluation, you were given a diagnosis of a personality disorder, and recommended for administrative discharge. You received a second nonjudicial punishment on 1 November 1974, for absence without authority from 9 August to 24 October 1974. On 30 January 1975, you were convicted by special court-martial of larceny of multiple items of personal property from two service members. You were sentenced to confinement at hard labor for four months, forfeiture of \$100.00 pay per month for four months, and a bad

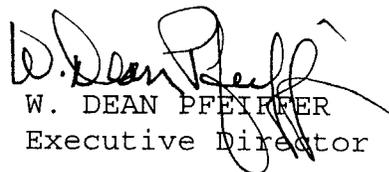
conduct discharge. You were separated from the Marine Corps on 29 July 1975 with a bad conduct discharge, upon completion of the appellate review of your conviction and sentence.

The Board noted that a personality disorder is not considered to be a disability under the laws administered by the military departments. Although a personality disorder may cause a service member unsuitable for further service, it will not render him unfit for duty by reason of physical disability. It appears that no action was taken on the recommendation for administrative discharge because of the acts of misconduct you committed after the recommendation was made. You would not have been entitled to disability separation or retirement even if you had suffered from a more serious mental disorder which rendered you unfit for duty, because your trial by court-martial and punitive discharge would have taken precedence over and precluded disability evaluation processing in your case.

In view of the foregoing, and as you have not demonstrated that it would be in the interest of justice for the Board to upgrade your discharge as a matter of clemency, 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