



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

SMS
Docket No: 2145-08
30 October 2008

[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 29 October 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.

On 13 January 1964, you enlisted in the Marine Corps at age 17 with parental consent. On 28 February 1964, while in recruit training, you began an unauthorized absence (UA). On 3 March 1964, you were apprehended by civilian authorities and held pending charges of interstate automobile theft. On 23 March 1964, you were issued orders to report to military authorities. However, on 24 March 1964, you began another UA when you failed to comply with the orders. On 2 April 1964, you were apprehended by military authorities after being in a UA status for about nine days. On 25 May 1964, you were delivered to civilian authorities. On 8 June 1964, you were convicted in civil court of interstate automobile theft and then returned to military authorities. On 17 June 1964, you were convicted by a summary court-martial of two instances of UA totaling 33 days and failure to obey a lawful order.

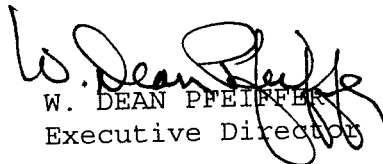
On 17 June 1964, your commanding officer initiated administrative separation by reason of misconduct and recommended an undesirable discharge (UD). In connection with this processing, you acknowledged that separation could result in a UD and waived the right to have your case heard by an administrative discharge board (ADB). On

28 July 1964, the separation authority approved the discharge recommendation and directed a UD by reason of misconduct. On 6 August 1964, 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 post service conduct. The Board also considered your contentions that medical treatment received while in recruit training and subsequent physical abuse that occurred after being assigned to a new platoon may have 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, specifically, more than a month of UA and a civil conviction. Regarding your contentions, the record shows that you were hospitalized and treated for itching and also given preventive treatment against meningitis, but there is no evidence in the record of physical abuse. 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.

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