



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

TJR  
Docket No: 3562-08  
5 March 2009

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, 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 3 March 2009. The names and votes of the members of the panel will be furnished upon request. 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 28 February 1985 after six years of prior honorable service. You continued to serve without disciplinary incident until 23 May 1985, when you received nonjudicial punishment (NJP) for theft of tennis shoes valued at \$55.

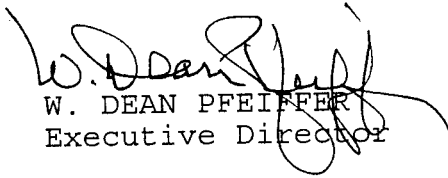
Your record reflects that on 2 March 1989 you were convicted by civil authorities of first degree murder and sentenced to confinement for life. As a result of this action, you were processed for an administrative separation by reason of misconduct due to civil conviction. After waiving your right to consult with legal counsel and to present your case to an administrative discharge board (ADB), the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct, and on 9 June 1990, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct. Accordingly, your application has been denied.

The Board believes that you are eligible for veterans' benefits which accrued during your prior periods of service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (DVA). In this regard, you should contact the nearest DVA office concerning your rights, specifically, whether or not you are eligible for benefits based on these periods of service.

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