



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

SMS
Docket No: 4337-08
26 January 2009

[REDACTED]

Dear [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 23 January 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.

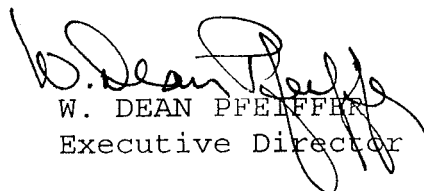
On 9 September 1969, you enlisted in the Marine Corps at age 18. On 15 September 1970, you had nonjudicial punishment (NJP) for failure to obey a lawful order. On 1 December 1970, you requested a humanitarian transfer. On 11 December 1970, you received a psychiatric evaluation that diagnosed you as having a depressive reaction and found you fit for duty with no mental impairment. On 4 January 1971, Headquarters Marine Corps (HQMC) denied your request for a humanitarian transfer because you did not meet the criteria established by regulations. On 27 July 1971, you had NJP for two instances of disrespect and disobedience of a lawful order. On 12 August 1971, you requested another humanitarian transfer. On 27 September 1971, you had NJP for willful disobedience of a lawful order and disrespect. On 27 September 1971, you also wrote a letter to a congressman, in which you stated that your request for a humanitarian transfer, hardship discharge, and general discharge were disapproved, and that you needed his assistance

to be discharged or transferred. On 8 November 1971, your commanding officer notified HQMC that you were counseled regarding hardship discharges and since your hardship was of a continuing nature, he recommended reconsideration of your request. On 18 November 1971, HQMC found that you did not meet the requirements for a hardship discharge, but approved a convenience of the government discharge due to your demonstrated hardship. On 1 December 1971, you were separated with a general discharge by reason of convenience of the government.

The Board, in its review of your entire record and application, carefully weighed all potential mitigation, such as your youth. The Board also considered your contention that you were told that you were receiving an honorable discharge. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your service due to your overall military record. In this regard, characterization of service for members who are discharged by reason of convenience of the government is determined by their conduct and actions. Given your three NJP's, the Board found that your service warranted a general characterization of service. Regarding your contention, there is no evidence to support 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