



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

TJR
Docket No: 1645-09
18 November 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 17 November 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 14 April 1984 after four years of prior honorable service. You served without disciplinary infraction until 7 July 1985, at which time you shot your spouse six times and fled the crime scene. On 8 July 1985 you were apprehended by civil authorities on charges of homicide. You were also hospitalized for a self-inflicted gunshot wound.

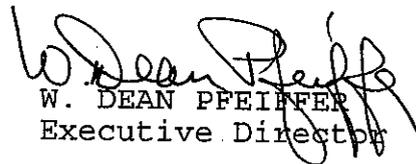
On 24 June 1986, while in the custody of civil authorities, you were notified of pending administrative separation action by reason of misconduct due to the civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 28 October 1986 an ADB recommended discharge under other than honorable conditions by reason of misconduct due to civil conviction. Subsequently, your commanding officer also recommended discharge under other

than honorable conditions by reason of misconduct due to civil conviction. On 18 September 1987 the discharge authority approved these recommendations, and on 14 October 1987, while in the custody of civil authorities, 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 which resulted in a civil conviction. Accordingly, your application has been denied.

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