



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

TJR
Docket No: 4037-09
26 August 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 25 August 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 enlisted in the Marine Corps on 10 April 1967 at age 17 and served without disciplinary incident until 10 January 1968, when you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded extra duty for 14 days.

During the period from 29 September to 9 December 1969 you received NJP on three more occasions for a two periods of unauthorized absence (UA) totalling four days, wearing your uniform in a manner not prescribed by regulations, failure to obey a lawful order, and breaking restriction.

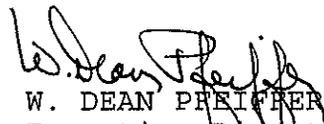
You also received NJP on three more occasions during the period from 13 to 26 January 1970 for two specifications of failure to obey a lawful order, recklessly operating a tractor trailer, and breaking restriction.

On 3 March 1970 you were notified of pending administrative discharge action by reason of unfitness as evidenced by frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended an undesirable discharge by reason of unfitness. On 2 April 1970 the discharge authority approved this recommendation and directed your commanding officer to issue you an undesirable discharge by reason of unfitness, and on 10 April 1970, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, combat history, desire to have your discharge upgraded, and the passage of time. It also considered your assertion of suffering from a post traumatic stress disorder (PTSD) and the mental health progress notes provided in support thereto; which also includes drug and alcohol abuse. The Board further considered your previous applications with this Board in March 2000 and the Naval Discharge Review Board in December 1984. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct, which resulted in seven NJPs. The Board noted that in December 1987, you reported having PTSD as a result of your 1983 civil conviction for transporting illegal drugs. Furthermore, there is no evidence in the record, and you submitted none to support a diagnoses of PTSD. Finally, the Board noted that you were given an opportunity to possibly receive a better characterization of service but waived your procedural right to present your case to an ADB. 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