



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

TAL
Docket No: 4231-09
8 March 2010

[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 24 February 2010. 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.

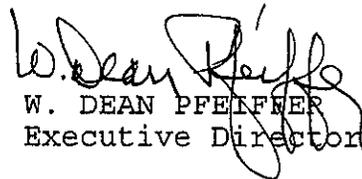
You enlisted in the Marine Corps and began a period of active duty on 29 April 1969 at age 20. On 17 September 1969, you received nonjudicial punishment (NJP) for two instances of unauthorized absence (UA) from your unit, totaling three days. On 2 December 1969, you received NJP for a 21 day period of UA from your unit and breaking restriction. On 6 February 1970, you received NJP for two instances of breaking restriction and three instances of UA from your unit for a period totaling 16 days. On 16 February 1970, you were convicted by civilian court in Norfolk, Virginia of altering a government check. On 26 April 1970, you were sentenced to three years probation and fined \$200. On 26 August 1970, you violated probation and you were awarded confinement for one year. On 2 December 1970, administrative discharge action was initiated to separate you by reason of civil conviction. You elected to consult with legal counsel and subsequently requested an administrative discharge board (ADB). On 16 February 1971, an ADB unanimously found that you had committed misconduct and recommended that you be discharged under other than honorable (OTH) conditions. Subsequently, on 22 February 1971, your commanding officer concurred with the ADB and

forwarded your case to the discharge authority for review. On 5 March 1971, the separation authority directed an OTH discharge by reason of civil conviction. On 14 May 1971, you were so discharged.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in a civil conviction. Finally, members of the armed services who are convicted by civil authorities may be discharged. 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