



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

TAL  
Docket No: 4695-09  
19 March 2010



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 10 March 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.

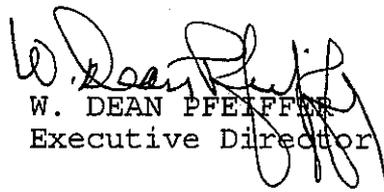
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 20 July 1976 at age 17. On 11 July 1978, you received nonjudicial punishment (NJP) for willfully disobeying a lawful order. On 12 December 1978, you were convicted by the Superior Court of Onslow County, North Carolina, of felonious possession of marijuana. You pled guilty and were sentenced to be imprisoned for three to five years, however, the sentence was suspended and you were placed on three years probation. On 19 January 1979, you were convicted by special court-martial (SPCM) of three instances of unauthorized absence totaling a period of 48 days. On 10 March 1979, administrative discharge action was initiated to separate you by reason of misconduct due to civil conviction. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). On 10 March 1979, your commanding officer forwarded his recommendation for discharge under other than honorable (OTH) conditions due to misconduct. On 30 April 1979, the separation authority directed an OTH discharge by reason of civil conviction. On 8 May 1979 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, an NJP, and a SPCM. Finally, the Board noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. 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