



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

TRG
Docket No: 5661-09
19 June 2009

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 17 June 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 8 July 1954 at age 20 with prior service in the Army National Guard. On 8 June 1955 you were convicted by a special court-martial after a guilty plea of wrongful appropriation of uniform items of another Marine valued at about \$80. The court sentenced you to forfeitures of pay, confinement at hard labor for four months and a bad conduct discharge. However, the bad conduct discharge was suspended for a probationary period of six months. On 24 June 1955 the Board of Review affirmed the findings of guilt and the sentence of the court-martial.

In connection with the court-martial conviction, on 22 June 1955, you were assigned 1.0 mark in conduct. On 31 July 1955 while in confinement you were assigned a mark of zero in conduct. Upon completion of confinement, you were returned to duty and served in a satisfactory manner until you were issued a general discharge under honorable conditions on 10 March 1958 at the expiration of your enlistment as extended for your period of lost time.

In order to be qualified for an honorable characterization of service at the expiration of an enlistment, the regulations required an average mark of 4.0 in conduct. As indicated you

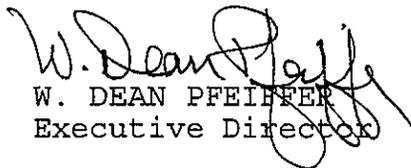
were assigned low marks in conduct following your court-martial conviction and during your period in confinement. Accordingly, your average mark in conduct at the time of discharge was properly computed as being 3.7.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your period of good service and contentions, in effect, that you have been a good citizen for many years and that the court-martial was set aside and that therefore you should not have been assigned the low marks in conduct. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your general discharge given the nature of your offense to which you pled guilty. As indicated, there is no evidence in the record that the court-martial was set aside. The only action taken was that the execution of the bad conduct discharge was suspended on probation for six months. The Board concluded that the assignment of adverse marks in conduct was supported by the record and, therefore, 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