



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

TAL
Docket No: 8964-09
11 June 2010

[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 9 June 2010. 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.

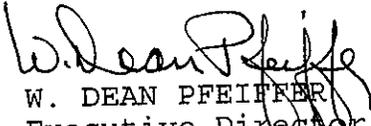
You enlisted in the Marine Corps and began a period of active duty on 3 August 1981 at age 24. On 20 March 1984, you received nonjudicial punishment (NJP) for unauthorized absence (UA) from your unit for two days and wrongfully borrowing \$570 from a junior Marine. You were awarded reduction in paygrade and 30 days in correctional custody. The correctional custody was suspended for six months; but on 17 July 1984 this suspension was vacated due to your continued misconduct. On 17 July 1984, you received NJP for failure to go to your appointed place of duty (fire watch), UA from your unit for one day and disobeying a lawful order. On 18 November 1976, you submitted a written request for an other than honorable (OTH) discharge in order to avoid trial by court-martial for willfully disobeying a lawful order on 28 June 1984. Prior to submitting this request you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Your request was granted and the commanding officer directed your OTH discharge. As a result of this action, you were spared the stigma of a

court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 23 November 1976 you were discharged under OTH conditions. On 21 May 1986 the Naval Discharge Review Board (NDRB) upgraded the characterization of your discharge to general under honorable conditions based on the finding that the nature and severity of the offense charged and your service record would not have resulted in a bad conduct discharge.

The Board, in its review of your entire record and application carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted. The Board noted you were fortunate that your characterization was changed by NDRB to general discharge. 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