



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

TAL
Docket No: 10058-09
7 July 2010



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 30 June 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.

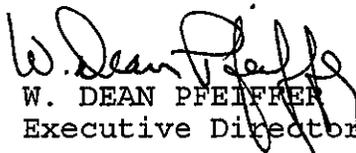
After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 8 September 1971 at age 18. On 25 June 1972 you were apprehended by civil authorities in Jacksonville, Florida, and charged with burglary, larceny of an automobile and possession of burglary tools. You were held on \$1,501 bond. Based on the information currently contained in your record it appears the charges were dropped. On 21 February 1975, you were again in the hands of civil authorities and on 28 November 1975 you were convicted of second degree murder. You were sentenced to one year confinement in Orange County jail and three years probation. You were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to misconduct. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). On 14 January 1976 the ADB found that you had committed misconduct and recommended that you be discharged under OTH conditions. On 29 September 1977, you received the OTH discharge for misconduct due to your civil conviction.

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. 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