



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

TAL
Docket No: 13226-09
3 September 2010



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 1 September 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 10 June 1968 at age 19. You received nonjudicial punishment (NJP) on two occasions for sleeping on watch and disobeying a lawful written order. On 18 January 1971, you were convicted by special court-martial (SPCM) of destruction of property valued at \$80 and larceny of a Sony tape deck valued at \$100. The sentence imposed was three months confinement, forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). The reduction in paygrade and BCD were suspended for six months. On 16 February 1971, you were notified of pending administrative discharge processing with an other than honorable (OTH) discharge due to unfitness because of wrongful use and possession of marijuana. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). The ADB found that you committed misconduct and recommended that you be separated with an OTH discharge. On 17 March 1971, the separation authority agreed

with the recommendation of the ADB and directed your commanding officer to issue you an OTH discharge by reason of misconduct and on 24 March 1971, you were so discharged.

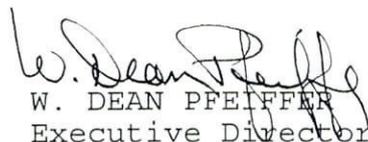
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as youth and overall record of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in two NJPs and a SPCM. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board believes that you are eligible for veteran's benefits for service connected injuries that you sustained during your period of satisfactory service. However, your eligibility is a matter under the cognizance of the Department of Veterans Affairs (DVA). In this regard, you should contact the nearest DVA office concerning your rights, specifically, whether or not you are eligible for benefits based on this period of service.

The Board also noted that you should contact Headquarters, United States Marine Corps (Code MMSR), 3280 Russell Road, Quantico, Virginia 22134-5103 to request that administrative corrections be made to your Certificate of Discharge or Release from Active Duty (DD Form 214), such as your date of birth, social security number, and record of service.

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