



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

TJR  
Docket No: 1411-10  
26 October 2010

[REDACTED]

[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 20 October 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 on 28 June 1971 at age 18. You served without disciplinary incident until 1 December 1971, when you received nonjudicial punishment (NJP) for sleeping on post.

On 13 March 1973 you were convicted by civil authorities of reckless driving and failure to yield for a siren, and were sentenced to confinement for 30 days. About three months later, on 4 June 1973, you received your second NJP for a one day period of unauthorized absence (UA) and were awarded restriction for 14 days and a six month suspended \$50 forfeiture of pay.

You were convicted by special court-martial (SPCM) on 18 March 1974 of two periods of UA totalling 48 days. You were sentenced to confinement at hard labor for two months, a \$300 forfeiture of pay, and reduction to paygrade E-1. The confinement was suspended for 12 months. However, six months later, on 26 September 1974, you began another period of UA that was not terminated until you were apprehended and held in confinement by civil authorities for various felony charges. As a result, on 13

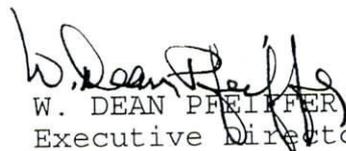
June 1975, you were convicted by civil authorities of safecracking, larceny of a motor vehicle, felonious on breaking and entering, and felonious larceny. Subsequently, you were sentenced to confinement for 40 years.

On 5 August 1975, while in the custody of civil authorities, you were processed for an administrative separation action by reason of unfitness. After waiving your procedural right to consult with legal counsel and to present your case to an administrative discharge board, you submitted a written request for immediate discharge. On 18 August 1975 the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of unfitness, and on 21 August 1975, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and desire to upgrade your discharge for social security purposes. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct which resulted in two lengthy periods of UA from the Marine Corps, two NJPs, a SPCM, and two convictions by civil authorities. Further, you were given an opportunity to defend yourself, but waived your procedural rights and requested immediate execution of your discharge. Accordingly, your application has been denied.

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