



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

TJR  
Docket No: 1562-10  
20 October 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 19 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 8 August 1975 at age 17 and began a period of active duty on 2 September 1975. You served without disciplinary incident until April 1976. However, during the period from 6 April to 6 May 1976, you received nonjudicial punishment (NJP) on three occasions for five periods of unauthorized absence (UA) totalling 12 days, discharging a pistol in the barracks, and two specifications of failure to obey a lawful order.

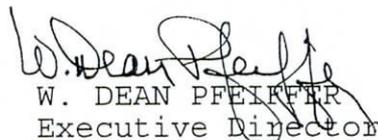
On 8 June 1976 you submitted a written request for an other than honorable discharge for the good of the service to avoid trial by court-martial for assault with a deadly weapon, disobedience, and wrongful possession of marijuana. However, your request was denied and the foregoing charges were referred for trial by court-martial. About a month later, on 8 July 1976, you were convicted by special court-martial (SPCM) of assault with a deadly weapon, disobedience, and wrongful possession of

marijuana. You were sentenced to confinement at hard labor for four months, restriction and hard labor for 45 days, a \$1,440 forfeiture of pay, and a bad conduct discharge (BCD). On 9 July 1976 you submitted a written request for immediate execution of the BCD. Subsequently, the BCD was approved at all levels of review and on 2 November 1979 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. It also considered your assertion of recruiter misconduct, specifically, cheating on an entrance examination. Nevertheless, these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive and frequent misconduct. Finally, there is no evidence in the record, and you submitted none, to support your assertion of recruiter misconduct. 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