



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

TJR
Docket No: 2157-10
14 January 2011

[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 11 January 2011. 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 23 February 1966 at age 17 and served for about eight months without disciplinary incident. However, on 30 September 1966, you received nonjudicial punishment (NJP) for a four day period of unauthorized absence (UA).

On 25 November 1968 you were convicted by special court-martial (SPCM) of a 34 day period of UA and were sentenced to reduction to paygrade E-1, a \$100 forfeiture of pay, and confinement at hard labor for two months. On 30 January 1969, shortly after being released from confinement, you began another period of UA that was not terminated until you were apprehended on 8 April 1969. On 19 May 1969 you were again UA for a three day period which also terminated when you were apprehended. About three months later, on 17 August 1969, you were in a UA status for 140 days. This period of UA was terminated on 7 January 1970 when you were apprehended and held in confinement.

On 8 January 1970 you were again UA, and during this period of UA you were apprehended by civil authorities on 18 March 1970 at which time you were charged with drunk and disorderly conduct. You were apprehended by civil authorities on 24 March 1970 and charged with forgery and uttering bad checks. Subsequently, you were released on a \$12,000 bond. On 8 September 1970 you were apprehended and held in confinement by civil authorities pending an investigation regarding the charges of forgery and uttering bad checks. It appears that on 2 December 1970 you were released from civil custody, and as such terminating a 324 day period of UA. However, on 21 December 1970, you were in a UA status for a 50 day period which was not terminated until you were apprehended on 11 February 1971.

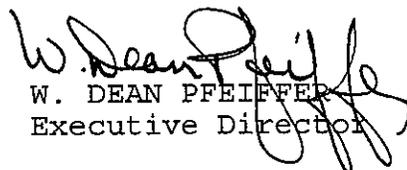
On 5 May 1972, while in a UA status since 27 February 1972, you were convicted by civil authorities of forgery and sentenced to confinement at hard labor for two years or to pay a \$2,000 fine. On 27 December 1972, while in civil custody, you were notified of pending administrative separation by reason of misconduct due to conviction by civil authorities. After consulting with legal counsel you elected your right to present your case to an administrative discharge board (ADB). On 15 March 1973 an ADB recommended an undesirable discharge by reason of misconduct due to civil conviction. Subsequently, the discharge authority directed your commanding officer to issue you an undesirable discharge by reason of misconduct due to civil conviction. On 9 April 1973 you were so discharged, thus terminating a 764 day period of UA.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, combat service, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your misconduct in both the military and civilian communities which resulted in an NJP, and conviction by both military and civil authorities. Finally, the Board noted that your frequent and lengthy periods of UA, which totalled approximately 1,387 days, all terminated when you were apprehended, and that you received no disciplinary action for this 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