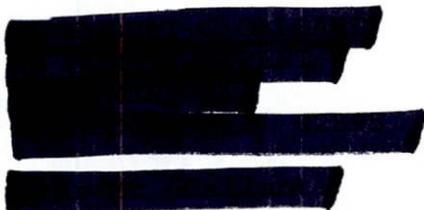




DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 2638-10
26 January 2011



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 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 29 November 1966 at age 17 and served about eight months without disciplinary incident. However, on 15 August 1967, you received nonjudicial punishment (NJP) for absence from your appointed place of duty. About six months later, on 15 February 1968, you received NJP for misbehavior as a sentinel.

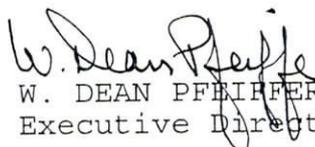
During the period from 25 July 1969 to 10 March 1970 you received NJP on three more occasions for three periods of unauthorized absence (UA) totalling 29 days and absence from your appointed place of duty. On 13 April 1970, while serving the Republic of Vietnam (RVN), you were convicted by special court-martial (SPCM) of a three day period UA and absence from your appointed place of duty. Shortly thereafter, on 5 May 1970, you were convicted by summary court-martial (SCM) of absence from your appointed place of duty.

Subsequently, you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. After consulting with legal counsel, you elected to present your case to an administrative discharge board (ADB). An ADB recommended discharge under honorable conditions by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. Your commanding officer, in concurrence with the ADB, also recommended discharge under honorable conditions by reason of unfitness. The discharge authority approved these recommendations and directed your commanding officer to issue you a general discharge under honorable conditions by reason of unfitness, and on 24 July 1970, 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, service in RVN, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct which resulted in five NJPs and two court-martial convictions during a time of war. Further, Marines with an extensive record of misconduct, such as yours, who are discharged by reason of unfitness normally receive discharges under other than honorable conditions, and as such, you were fortunate to receive a general discharge. Finally, no discharge is upgraded due solely to the passage of time. 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 PFIEFFER
Executive Director