



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

RDZ:ecb
Docket No. 04091-10
10 November 2010

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the 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 4 November 2010. 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 that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

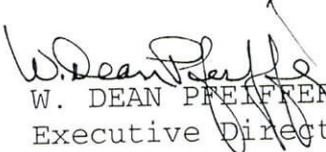
Having successfully served on active duty in the Marine Corps from 2 November 1987 to 27 December 1993 you were honorably discharged. On the next day following your discharge you reenlisted for a term of four years. Unfortunately you only served a little over two years and were administratively separated with an other than honorable discharge (OTH) due to your committing a serious offense in the civilian community. Specifically on the evening 6 June 1995, following an argument with another service member over his wife you produced a pistol and fired one shot through the front door of the service member's apartment while he and his wife were inside.

In its review of your application the Board concluded that your genuine remorse for having committed this offense as well as your commendable post service conduct does not outweigh the seriousness of your misconduct. Clearly intentionally firing a pistol into premises occupied by others is highly dangerous. Moreover the Board noted that at the time you committed this offense you were 26 years old and held a position of leadership having been promoted to sergeant. Under these circumstances the Board found that your discharge was properly issued and should not be changed now as a matter of clemency.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

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