



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

TJR
Docket No: 4704-10
2 March 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 1 March 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 27 June 1972 at age 18 and served about three months without disciplinary incident. However, during the period from 31 October 1972 to 3 December 1973, you were in an unauthorized absence (UA) status on seven occasions for a total of 90 days. As a result you received nonjudicial punishment (NJP) on three occasions and were convicted by summary court-martial (SCM) and special court-martial (SPCM).

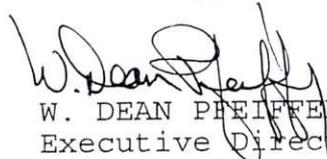
During the period from 14 February to 1 October 1974 you received NJP on five more occasions for five periods of UA totalling 46 days. Shortly thereafter, on 4 October 1974, you were notified of pending administrative separation action by reason of unfitness. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 11 October 1974 your commanding officer recommended discharge under other than honorable conditions by reason of unfitness as evidenced by eight NJPs, SCM, and SPCM. On 15 November 1974 the discharge authority

approved this recommendation and directed your commanding officer to issue you an other than honorable discharge by reason of unfitness, and on 21 November 1974 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 that your discharge was extreme since you "made up almost all of the lost time" and as such should have been discharged with an honorable characterization of service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive and lengthy periods of UA which resulted in eight NJPs and two court-martial convictions. Further, you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. Finally, there is no evidence in the record, and you submitted none, to support your assertion. 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