



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

TAL
Docket No: 6035-10
7 March 2011

[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 2 March 2011. 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.

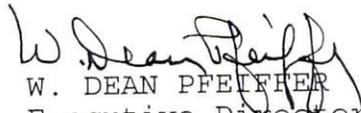
You enlisted in the Marine Corps and began a period of active duty on 30 January 1970 at age 22. On 26 July 1972, you were convicted by special court-martial (SPCM) of unauthorized absence (UA) from your unit for a period of 674 days. The sentence imposed was 90 days confinement, forfeiture of pay, reduction in paygrade and a bad conduct discharge (BCD). A portion of the sentence including the BCD was suspended for six months. On 24 October 1972, you were again UA from your unit for a period of 500 days until you were apprehended by the Federal Bureau of Investigation in Brooklyn, New York, on 7 March 1974. On 17 April 1974 your commanding officer vacated the BCD and the other suspended portions of your sentence from the 26 July 1972 SPCM. On 1 May 1974, you received the BCD.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your misconduct that resulted in a SPCM and periods of UA that lasted over three years and two months. Finally, there is no provision of law or in Navy regulations that allows for recharacterization of service due

solely to the passage of time. 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