



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

TJR  
Docket No: 350-11  
21 October 2011

[REDACTED]

[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 18 October 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 6 July 1989 at age 20 and served without disciplinary incident until 26 October 1989 when you received nonjudicial punishment (NJP) for communicating a threat and assault. The punishment imposed was restriction and extra duty for 14 days and a \$130 forfeiture of pay.

Your record reflects an incident report dated 6 May 1991 which notes, in part, that after you had forced your way into the private residence of a civilian female, you assaulted her by striking her several times with a closed fist on her face and kicking her in the stomach. As a result, the female sustained contusions, abrasions on her body, and dental damage. It further notes that you fled the scene and returned to your duty station where you were subsequently apprehended and charged with assault. On 19 November 1991 you were convicted by special court-martial (SPCM) of assault and sentenced to confinement for 30 days and a \$600 forfeiture of pay.

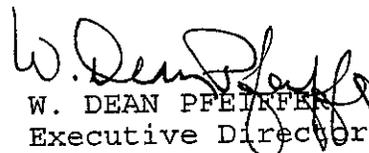
On 18 March 1992 you received NJP for assault and were awarded restriction and extra duty for 45 days, a \$440 forfeiture of pay, and reduction to paygrade E-2. Subsequently, on 9 May 1992, you were notified of pending administrative separation action by reason of misconduct due to a pattern of misconduct. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). On 13 May 1992 your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. On 22 July 1992 the discharge authority approved this recommendation and directed separation under other than honorable conditions by reason of misconduct, and on 5 August 1992 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, combat service, and desire to upgrade your discharge.

It also considered the assertion of a post traumatic stress disorder resulting from your combat service. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in two NJPs and a SPCM. Further, you were given an opportunity to defend your actions, 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