



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

TJR
Docket No: 10203-02
8 September 2003



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 3 September 2003. 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 19 February 1978 at age 17. You served for a year and two months without disciplinary incident, but on 18 April and again on 6 September 1979 you received nonjudicial punishment (NJP) for two periods of absence from your appointed place of duty and disobedience. On 25 October 1979 you were convicted by summary court-martial (SCM) of disobedience and disrespect. You were sentenced to confinement at hard labor for 30 days and a \$200 forfeiture of pay.

On 25 January 1980 you received NJP for absence from your appointed place of duty and were awarded a \$98 forfeiture of pay. On 19 March 1980 you were convicted by SCM of absence from your appointed place of duty, disobedience, and dereliction in your performance of duty. You were sentenced to a \$295 forfeiture of pay, confinement at hard labor for 15 days, and restriction for 30 days. On 4 August 1980 you were convicted by SCM of absence

from your appointed place of duty and two periods of unauthorized absence (UA) totalling eight days. You were sentenced to confinement at hard labor for 30 days and a \$298 forfeiture of pay.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board. On 11 August 1980 your commanding officer recommended an other than honorable discharge by reason of misconduct due a frequent involvement of a discreditable nature with military authorities. This recommendation further stated as follows:

(Member) is a constant source of discipline and conduct problems.... demonstrated a complete disregard for the military way of life.... repeated formal & informal counselling received no attention.... he is destined to repeated misconduct by his own choice.... has not shown any self-discipline, pride, or motivation.... has demonstrated no desire to perform as team member nor is he trusted by his peers.

On 20 August 1980 the discharge authority directed an other than honorable discharge by reason of misconduct, and on 24 August 1980 you were so discharged.

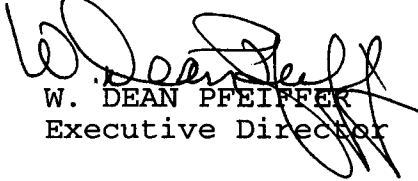
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that your attitude and actions merit an upgraded discharge. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in three NJPs and three court-martial convictions. Further, the Board noted that the record shows that you were given an opportunity to defend yourself, but waived your procedural rights. 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