



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

TJR
Docket No: 10960-02
16 October 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 15 October 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 28 August 1978 at age 19. You served without disciplinary incident until 29 June 1979, when you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and failure to obey a lawful order. The punishment imposed was a \$100 forfeiture of pay and restriction and extra duty for seven days. On 19 September and again on 26 October 1979 you received NJP for failure to obey a lawful order, disrespect, and two instances of failure to go to your appointed place of duty.

During the period from 18 to 22 August 1980 you were in an unauthorized absence (UA) status for a total of four days, however, the record does not reflect that any disciplinary action was taken for this period of UA.

On 8 January 1981 you were convicted by summary court-martial (SCM) of a 66 day period of UA and sentenced to confinement for

30 days and a \$50 forfeiture of pay. On 30 April 1981 you were convicted by SCM of three periods of UA totalling 50 days. You were sentenced to confinement at hard labor for 30 days, reduction to paygrade E-1, and a \$250 forfeiture of pay.

On 28 July 1981 your commanding officer submitted a written request for authorization to process you for separation based on your record of misconduct. This request stated, in part, as follows:

Request administrative separation authorization by reason of misconduct due to frequent involvement of a discreditable nature with military authorities as evidenced by Member's record of three NJPs and two court-martial convictions. Member has failed to rise above E-1.... has established a clear and unbroken pattern of recidivism regarding UA.... despite numerous counselling sessions he has shown himself unresponsive to all leadership efforts.... is considered incorrigible.... based on his record and apparent unwillingness to ameliorate his conduct and performance, a misconduct discharge is considered appropriate.

On 12 August 1981 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. Subsequently, your commanding officer recommended an other than honorable discharge by reason of misconduct due a frequent involvement of a discreditable nature with military authorities. On 17 August 1981 you received a fourth NJP for two periods of UA totalling four days and were awarded restriction and extra duty for 14 days and a \$80 forfeiture of pay. Shortly thereafter, the discharge authority directed an other than honorable discharge by reason of misconduct, and on 15 October 1981 you were so discharged.

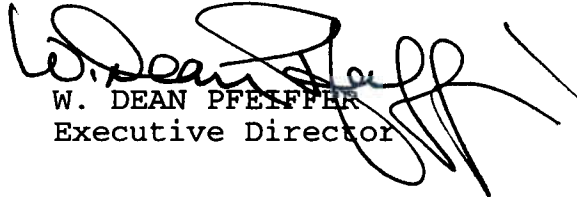
The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your assertion that you were supposed to receive a medical discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct which resulted in four NJPs and two court-martial convictions. 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