



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

TJR  
Docket No: 7352-06  
6 April 2007

[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 3 April 2007. 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 July 1965 at age 17. You served for two years and six months without disciplinary incident, but during the period from 26 January to 7 March 1968 you received nonjudicial punishment (NJP) on three occasions for two specifications of dereliction of duty, failure to obey a lawful order, disobedience, wrongful possession of a visitor's pass, and failure to go to your appointed place of duty. During the period from 24 to 28 May 1968 you were in an unauthorized absence (UA) status for four days. However, the record does not reflect the disciplinary action taken, if any, for this misconduct.

On 29 May 1968 you began another period of UA. During the period from 24 October 1969 to 20 August 1970, while in a UA status, you were convicted by civil authorities on three occasions for larceny of a vehicle, receiving stolen goods, assault, battery, malicious mischief, and carrying an unlicensed firearm. About six months later, on 4 February 1971, the 972 day period of UA was terminated when you were returned to military control.

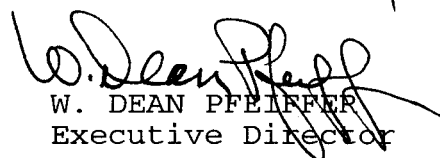
On 26 March 1971 you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At that time you waived your right to consult with legal counsel and to present your case to an administrative discharge board (ADB). Subsequently, your commanding officer recommended an undesirable discharge by reason of misconduct. On 8 April 1971 the discharge authority approved this recommendation and directed an undesirable discharge, and on 16 April 1971 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, period of good service, post service conduct, and assertion that your discharge was the result of marital and family problems, drug and alcohol abuse, personal hardship, and physical problems. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your repetitive misconduct in both the military and civilian communities, which also resulted in three NJPs and three convictions. Further, the Board noted that you were given an opportunity to defend yourself, but waived your procedural right to present your case to an ADB. 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